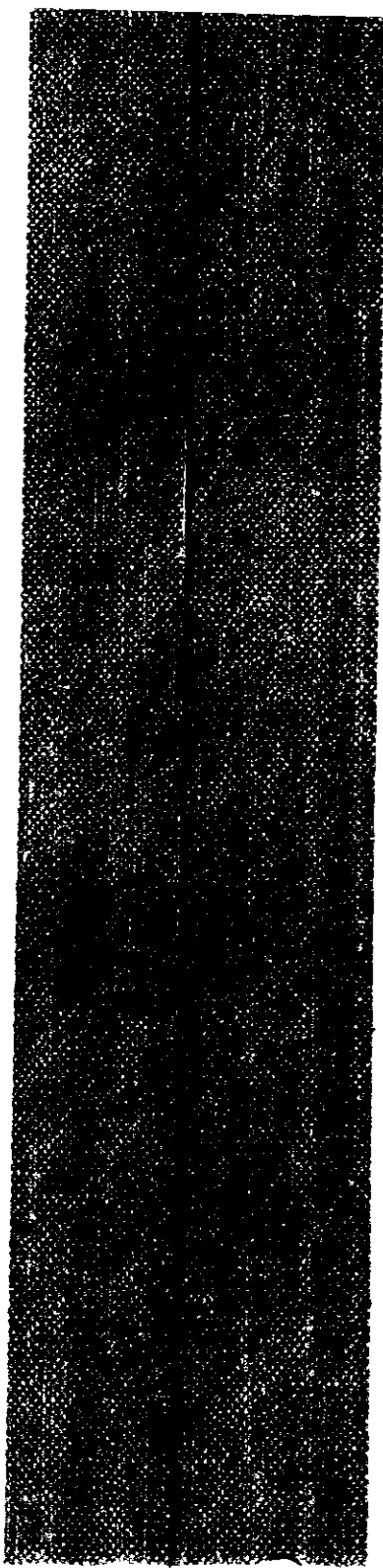


43510



A Partnership Including
Professional Corporations
227 West Monroe Street
Chicago, IL 60606-5096
312-372-2000
Facsimile 312-984-2099

Boston
Chicago
Los Angeles
Miami
Newport Beach
New York
Tallinn (Estonia)
Vilnius (Lithuania)
Washington, D.C.
Associated (Independent) Offices
London
Paris

MCDERMOTT, WILL & EMERY

Shell J. Bleiweiss
Attorney at Law
312-984-3664

March 31, 1994

BY MESSENGER

Richard Boice, P.E.
Remedial Project Manager
Remedial and Enforcement Response Branch
U.S. Environmental Protection Agency
77 West Jackson
Mail HSRL-6J
Chicago, IL 60604

Re: Yeoman Creek/Edwards Field -- PRP Investigation

Dear Rich:

As promised, enclosed please find summaries of the evidence of liability at the referenced Site concerning forty-seven (47) non-participating PRPs (identified on Attachment A). This information has been updated since we last supplied it to you to include the results of discovery in the private cost recovery/contribution litigation that is pending in this matter.

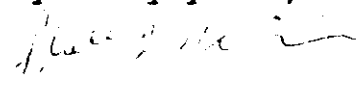
We understand that you are planning supplemental 104(e) requests at this Site. We urge the Agency to send such requests to all forty-seven (47) parties represented in these evidence summaries. Further, we urge you to tailor the requests to focus on the particular issues identified in each evidence summary, vis-a-vis that PRP.

Finally, we urge EPA to broaden its list of identified PRPs at this Site extensively, based on the enclosed evidence and any additional information you receive through your Section 104 investigation.

March 31, 1994
Page 2

If you have any questions, comments, or wish clarifying or additional information, please do not hesitate to contact the undersigned. This information is being submitted for settlement purposes only pursuant to Federal Rule of Evidence 408.

Very truly yours,


Shell J. Bleiweiss
Chairman
Yeoman Creek/Edwards Field
Steering Committee

SJB/ih
\\28774\\011\\SHB\\55CORSB.236

cc: S. Hersh
Yeoman Creek/Edwards Field Steering Committee

ATTACHMENT A

ABF Freight System Inc.
Abbott Labs
Anchor Hocking Corporation
Bearing Headquarters Company
Cain Beneficiaries
Chem-Rite Products Co., Inc.
Chicago Rubber Company, Inc.
Commonwealth Edison Company
Coral International, Inc.
FK Pattern & Foundry Co.
Fansteel & VR/Wesson
Gordon's Auto Parts, Inc.
Illinois Bell Telephone Company
International Harvester Truck Dealership
Interstate Electric Supply Company
Jensen Disposal, Inc.
K-Mart Corporation
Karry Brothers Transmission Corporation
Lake County Hospital
Lake Shore Foundry, Inc.
Larsen & Petersen Paint Company
Lovinger and Kramer
Montgomery Ward & Co., Inc.
City of North Chicago
North Chicago Refiners and Smelters
North Shore Gas Company
North Shore Printers
North Shore Sanitary District
Pfanstiehl Chemical Corporation
Pfanstiehl Detergent Chemical Company
Pfanstiehl Laboratories, Inc.
Pickus Construction & Equipment Company, Inc.
Polyfoam Packers Corporation
Reed-Randle Ford
Rubloff, Inc.
St. Therese Medical Center
Sears, Roebuck & Company
Stone Container
Henry Tewes
U.S. Steel Corporation
U.S. Envelope/Westvaco
VMC, Inc.
Victory Memorial Hospital
Waste Management
Waukegan Marine, Inc.
Waukegan News-Sun
Waukegan Park District

ABBOTT LABS

SUMMARY FOR ABBOTT LABS

During the relevant time period, Abbott Labs ("Abbott") operated a pharmaceutical manufacturing facility in North Chicago, Illinois. Abbott also conducted research, development and testing activities at this facility. During the mid to late 1960s, Abbott opened a second facility in Waukegan, Illinois called the Abbott Park facility. Abbott conducted similar activities at this facility. (Ex. 1--Answer to Interrogatory 3)

In its response to Interrogatories, Abbott provided at least a partial description of its waste stream during the relevant period, which "included organics, solvents, heavy metals and activated sludge," as well as "radioactive" or "active waste materials." Abbott claimed that all of these materials were either disposed of on its own site or were transported to other disposal facilities. (Ex. 1--Answer to Interrogatory 3(e))

Abbott also acknowledged that "office trash, cafeteria waste, empty bags, yard construction waste such as broken concrete and wood and fiber drums containing returned goods" were taken from its Abbott Park facility to the Edwards Field/Yeoman Creek landfills ("The Site") toward the end of the relevant period. (Ex. 1--Answer to Interrogatories 3(e) and 4(a) and (b)).

However, in its response to the USEPA's 104(e) request for information, Abbott acknowledged that a much broader array of its waste materials was hauled to the Site. Abbott admitted that the following waste materials were also hauled to the Site: corrugated boxes, filter cake from fermentation processes, solid laboratory waste from diagnostic research, and unused hospital products from its manufacturing operations. (Ex. 2--August 7, 1989 104(e) Response)

Several eye witnesses saw Abbott trucks regularly deliver a variety of waste materials to the Site during the relevant time period. Their descriptions of these waste materials closely resemble the description contained in Abbott's 104(e) response.

Throughout the relevant period, Ole Kirkegaard and Peder Kirkegaard were drivers for Waukegan Disposal. Both visited the Site on a daily basis and were present when Abbott's 25-yard Leach packer trucks disposed of waste at the Site several times per week throughout the 1960s. (Ole Kirkegaard 466-468, 1074, Peder Kirkegaard 431, 434-436) In addition to general loose trash, the Abbott trucks dumped a "wet brownish material" which had an extremely unpleasant odor. (Ole Kirkegaard 1075, 1148, Peder Kirkegaard 438) Peder Kirkegaard specifically recalled that he saw and smelled this material each time the Abbott trucks unloaded.

(Peder Kirkegaard 439) Ole Kirkegaard recalled that this material was referred to as "filter cake." (Ole Kirkegaard 1076) A number of other drivers and landfill employees confirmed that Abbott hauled its own waste to the Site on a regular basis during the relevant time period. (Powles 260-63, Van Prooyen 261-63, Tewes 60-61, Shulski 79)

A number of witnesses also recalled that Abbott hauled drummed waste to the Site in an open dump truck on a periodic basis. (Ole Kirkegaard 1076-77, Peder Kirkegaard 431-32, Marvin Powles 260-61, John Van Prooyen 263) Ole Kirkegaard saw this dump truck at the Site approximately once a month. On these occasions, the truck was filled with 55-gallon drums. He estimated that the truck held approximately 20-25 drums. (Ole Kirkegaard 1076-77)

John Van Prooyen, who managed the Site for National Disposal in the late 1960s also recalled that Abbott's dump truck disposed of a load of drums at the Site on a number of occasions. (Van Prooyen 276, 430) On one occasion the Abbott driver removed the lid from a 55-gallon drum and poured a "dark liquid" on the ground. (Van Prooyen 281) When the drum was empty, the driver replaced it in the Abbott truck. (Van Prooyen 278-79)

Fred Larsen, William Larsen and William Brandt confirmed in interviews that Abbott delivered a variety of waste materials to the Site, including scrap glass, outdated medicines, paper waste and dead laboratory animals.

Perhaps the best description of the waste materials Abbott transported to the Site resulted from surveys of Abbott's waste disposal practices conducted by Waukegan Disposal and National Disposal. In the late 1960s, Abbott requested that Waukegan Disposal submit a proposal for waste disposal services at Abbott's North Chicago facility. (Ole Kirkegaard 469) Ole Kirkegaard spent a full week at this facility observing its waste disposal practices. From 6:30 a.m. to 2:30 p.m. each day, Mr. Kirkegaard rode with the Abbott driver who operated the 25-yard Leach packer truck. Mr. Kirkegaard wrote down every stop made at the Abbott facility as well as the nature and volume of waste picked up. (Ole Kirkegaard 471)

Abbott's North Chicago facility consisted of a number of buildings covering several acres on the Lake Michigan lakefront. The entire route involved approximately 40-60 waste containers including one and a half to two-yard ground containers and 55-gallon fiber and steel drums. (Ole Kirkegaard 473, 477, 479) The Abbott driver covered this route two to three times per day. (Ole Kirkegaard 484) At least once each day, the truck would fill with

waste, and the driver would empty the truck at the Site. (Ole Kirkegaard 481)

Mr. Kirkegaard was able to recall the type of waste picked up from a number of different locations on the route. For example, the containers at the main office building contained primarily office papers and corrugated boxes. At other locations Mr. Kirkegaard recalled that wooden pallets, one- and five-gallon empty pails, floor sweepings, and empty paper bags with white powder residue were included in the waste materials. (Ole Kirkegaard 490, 492-493, 496) Mr. Kirkegaard saw the Abbott driver empty a wet brown smelly waste material from containers into the truck at several locations at the Abbott facility. This was the same material Mr. Kirkegaard had earlier seen disposed of at the Site by Abbott trucks on a regular basis. (Ole Kirkegaard 492, 1075-76)

National Disposal also did a survey of Abbott's waste disposal practices. In the late 1960s, John Van Prooyen conducted time studies at several customers of National Disposal, including the Abbott Park facility in Waukegan. (Van Prooyen 270) Mr. Van Prooyen was able to observe several types of waste being disposed of by Abbott at this facility, including paper, carbon paper, floor sweepings and general office trash. (Van Prooyen 416) National Disposal hauled these materials to the Site for Abbott on a regular basis in the late 1960s.

In summary, the testimony of several eye witnesses corroborates the admissions made by Abbott in its responses to discovery and in its 104(e) responses. The sworn testimony of these witnesses verifies that Abbott arranged for the disposal of at least 25 yards of compacted waste at the Site on a daily basis throughout the relevant period. In addition, these witnesses confirmed that Abbott disposed of substantial amounts of liquid waste in 55-gallon drums on a periodic basis throughout the relevant period.

The evidence also establishes at least a partial description of Abbott's waste stream disposed of at the Site. In addition to general office and cafeteria waste, Abbott's waste included filter cake, laboratory waste, unused hospital products, and an unidentified dark liquid.

The plaintiffs believe that the follow-up investigation regarding Abbott should include the following:

1. Determine the volume and composition of the filter cake disposed of at the Site.
2. Determine the volume and composition of the "dark liquid" waste disposed of at the Site.

3. Determine was the volume and composition in the solid laboratory waste disposed of at the Site.
4. Determine was the volume and composition of the unused hospital products disposed of at the Site.
5. Can Abbott conclusively establish that its waste organics, solvents, heavy metals and activated sludge were incinerated or disposed of at other facilities and further that none of these materials was sent to the Site?
6. Interview individuals who observed Abbott trucks disposing of a variety of waste materials at the Site.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

YEOMAN CREEK PRP COMMITTEE,)	
)	
Plaintiff,)	Case No. 92 C 7592
)	
vs.)	Judge Leinenweber
)	
ABBOTT LABORATORIES, et al.)	Magistrate Judge Rosemond
)	
Defendants.)	

ABBOTT LABORATORIES RESPONSE TO
PLAINTIFF'S FIRST SET OF INTERROGATORIES

Defendant Abbott Laboratories ("Abbott") submits the following objections and responses to the First Set of Interrogatories Propounded on Defendant, Abbott Laboratories, by Plaintiff (the "Interrogatories"):

GENERAL OBJECTIONS

1. Abbott objects to the Interrogatories to the extent that they seek information protected by the attorney-client privilege, the work-product doctrine, or Rule 26(b) of the Federal Rules of Civil Procedure ("Federal Rules").

2. Abbott objects to Definition No. 7 of the Interrogatories to the extent that it purports to include within the definition of "Hazardous Substance" any substance which is not a "hazardous substance" under § 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. § 9601(14).

3. Abbott objects to Instruction No. 8 of the Interrogatories to the extent that it purports to place upon Abbott a duty to supplement a complete response beyond that imposed by Rule 26(e) of the Federal Rules.

4. Abbott objects to Definition No. 16 to the extent that it defines the relevant time period to include a period beyond the time that the Complaint alleges the Yeoman Creek Site was operating.

Subject to and without waiving these General Objections, Abbott submits the following responses and objections to the individual interrogatories propounded by plaintiffs:

RESPONSES TO SPECIFIC INTERROGATORIES

Interrogatory No. 1:

Identify all Persons consulted in the preparation of the answers to these Interrogatories, including current or last known addresses and telephone numbers.

RESPONSE:

David Schwarz
200 West Chestnut Avenue
Apt. 111
Glenview, IL 60025

Gregory Bauer
516 Juniper Parkway
Libertyville, IL 60048

Billy J. Green
25 Country Ridge
Melissa, TX 75454

Ronald Fredrickson
12140 44th Avenue
Kenosha, WI 53142

Thomas Madsen
1270 Gulf Boulevard
Clearwater, FL 3463

George Shipton
330 Scottsdale Road
Pleasant Hill, CA 94523

Jonathan Miller III
28433 Wood Dale Lane
Libertyville, IL 60048

Gaillard Rumford
8989 E. Escalante, #249
Tucson, AZ 85730

Walter Rahn
1276 Par View Drive
Sanibel, FL 33957

Willie Lozano
Route 3, Box 655
Albany, KY 42602

Thomas Mason
Route 2, Box 343-M
Eagle Avenue
Westfield, WI 53964

Pete Ruiz
2737 Navaho Road
Waukegan, IL 60087

Frank Kelly
802 Bartlett Terrace
Libertyville, IL 60048

Bill Sullivan
14229 Teasdale
Hudson, FL 34667

Mike Schmidt
633 Ridgewood
Libertyville, IL 60048

Phil Hannon
93 Warrington Drive
Lake Bluff, IL 60044

Chuck Ritz
1718 Dugdale Road
Waukegan, IL 60085

Dick Kessler
25722 Sylvan Drive
Antioch, IL 60002

Bill Barker
3 Naravaez Lane
Hot Springs Village, AK 71909

William Smart
3901 West Madura Road
Gulf Breeze, FL 32561

Frank C. Secker
Abbott Laboratories
One Abbott Park Road
Abbott Park, IL 60064

Paul Finegan
Abbott Laboratories
One Abbott Park Road
Abbott Park, IL 60064

Jim Greiner
Abbott Laboratories
One Abbott Park Road
Abbott Park, IL 60064

Lynn Hoselton
Abbott Laboratories
One Abbott Park Road
Abbott Park, IL 60064

John Knobbe
Abbott Laboratories
One Abbott Park Road
Abbott Park, IL 60064

Bill Micheli
Abbott Laboratories
One Abbott Park Road
Abbott Park, IL 60064

Jim Pink
Abbott Laboratories
One Abbott Park Road
Abbott Park, IL 60064

Paul Price
Abbott Laboratories
One Abbott Park Road
Abbott Park, IL 60064

Rudy Sundberg
Abbott Laboratories
One Abbott Park Road
Abbott Park, IL 60064

Ronald Vogt
Abbott Laboratories
One Abbott Park Road
Abbott Park, IL 60064

Stanford White
Abbott Laboratories
One Abbott Park Road
Abbott Park, IL 60064

Interrogatory No. 2:

Identify all Persons, including Defendant's employees or former employees, known or suspected to have knowledge or information about the use, acquisition, generation, storage, treatment, transportation, disposal or other handling of Waste Materials by Defendant, Defendant's contractors or by prior or subsequent owners and operators of Defendant's Facility or Facilities.

RESPONSE:

Abbott objects to Interrogatory 2 as being vague, overly broad and unduly burdensome. Without limiting the generality of the foregoing objections, Abbott specifically objects to the term "Waste Materials" as rendering this Interrogatory vague, overly broad and unduly burdensome. Under CERCLA and the allegations of the Complaint in this matter, Abbott's alleged liability to plaintiffs can be premised only upon Abbott's alleged disposal, or arrangement for disposal, at the Yeoman Creek Site of "hazardous substances" as that term is defined in 42 U.S.C. § 9601(14). Inclusion of the term "Waste Materials" extends this Interrogatory far beyond such activities, to encompass virtually every act of discarding any matter whatsoever by every Person associated with Abbott during the period of time covered by the Interrogatories. Further, to the extent Interrogatory 2 seeks the identity of persons without knowledge pertaining to the period of time the landfill was in operation, Abbott objects on the ground that it is overbroad and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of relevant

evidence. Subject to and without waiving the foregoing objections.

Abbott states as follows:

David Schwarz
200 West Chestnut Avenue
Apt. 111
Glenview, IL 60025

Billy J. Green
25 Country Ridge
Melissa, TX 75454

Ronald Fredrickson
12140 44th Avenue
Kenosha, WI 53142

Thomas Madsen
1270 Gulf Boulevard
Clearwater, FL 34630

Jonathan Miller III
28433 Wood Dale Lane
Libertyville, IL 60048

Gaillard Rumford
8989 E. Escalante, #249
Tucson, AZ 85730

Walter Rahn
1276 Par View Drive
Sanibel, FL 33957

Willie Lozano
Route 3, Box 655
Albany, KY 42602

Thomas Mason
Route 2, Box 343-M
Eagle Avenue
Westfield, WI 53964

Frank Kelly
802 Bartlett Terrace
Libertyville, IL 60048

Bill Sullivan
14229 Teasdale
Hudson, FL 34667

Phil Hannon
93 Warrington Drive
Lake Bluff, IL 60044

Chuck Ritz
1718 Dugdale Road
Waukegan, IL 60085

Dick Kessler
25722 Sylvan Drive
Antioch, IL 60002

Bill Barker
3 Naravaez Lane
Hot Springs Village, AK
71909

William Smart
3901 West Madura Road
Gulf Breeze, FL 32561

Interrogatory No. 3:

Did Defendant use, acquire, generate, store, treat, transport, dispose or otherwise handle any Hazardous Materials at or to its Facility or Facilities during the relevant time period? If you answered in the affirmative, identify for each such Material:

- (a) the common name, chemical name, chemical composition, characteristics, physical state (e.g.,

solid, liquid) of that Hazardous Material, providing copies of any Documents used or consulted in making such determination (e.g., MSDSs, Supplier Specification Sheets);

- (b) whether any tests or analyses were performed on that Hazardous Material and the results of such tests or analyses, providing any available Documentation of those results;
- (c) the Person(s) who supplied Defendant with that Hazardous Material;
- (d) the time period(s) during which that Hazardous Material was used or otherwise handled by Defendant;
- (e) where that Hazardous Material was disposed of by Defendant, providing a complete list of the sites at which Defendant disposed, or arranged for the disposal, of such Materials;
- (f) the quantity of that Hazardous Material disposed of by Defendant on a monthly basis during the time period(s) listed for that Material in response to subpart (e);
- (g) the type(s) of container(s) in which that Hazardous Material, in any form or concentration, was disposed and all markings or labels on such containers; and;
- (h) the Person(s) who transported that Hazardous Material, in any form or concentration, to the disposal site(s) listed in response to subpart (f).

RESPONSE:

Abbott objects to Interrogatory 3 on the grounds that it is overbroad and unduly burdensome, and further that it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of relevant evidence. Abbott further objects to the term "Hazardous Material(s)" in this interrogatory as rendering the Interrogatory and each of its subparts vague, ambiguous, overbroad and unduly burdensome. Under CERCLA and the

allegations of the Complaint, Abbott's alleged liability to plaintiffs can be premised only upon Abbott's alleged disposal, or arrangement for disposal, at the Yeoman Creek Site of "hazardous substances" as that term is defined in 42 U.S.C. § 9601(14). The term "Hazardous Materials" extends beyond "hazardous substances" to include the vague and ambiguously-defined terms "Pollutant" and "Contaminant," the disposal or arranging for disposal of which would not give rise to any liability under § 107(a) of CERCLA, 42 U.S.C. § 9607(a). Subject to and without waiving any of the foregoing objections, Abbott states as follows:

(a) Pharmaceutical research and development, manufacturing and testing were conducted at the Abbott North Chicago Facility during the relevant time period, and at the Abbott Park Facility beginning in the late 1960's. As such, it is believed that many of the materials used, acquired, generated, stored, treated, transported, disposed or otherwise handled at the Abbott Facilities may have been "Hazardous Materials," as that term is defined in Plaintiff's First Set of Interrogatories. Also, based on documents produced in response to Plaintiff's document production request nos. 1 and 2, Abbott believes that it may have used certain radioactive materials, apparently for product development and testing. For identification of these materials, see Abbott's response to Plaintiff's document request nos. 1 and 2. Abbott is without sufficient information to respond to the remaining portions of Interrogatory 3(a).

(b) Testing was conducted on materials acquired for use in the manufacture and development of pharmaceuticals. Testing was also performed on product samples. See also response to Interrogatory 3(a).

(c) See response to Interrogatory 3(a).

(d) Abbott objects to Interrogatory 3(d) to the extent it seeks information for a period of time beyond the period the Tecumseh Creek Site is alleged to have operated. Subject to and without waiving the foregoing objection, see response to Interrogatory 3(a).

(e) The documents referred to in response to Interrogatory 3(a) indicate that radioactive or "active" waste materials were sent for disposal to "Oak Ridge, Tennessee", "California Nuclear", "U.S. Ecology", "Nuclear Engineering" and "Sheffield." Also, beginning some time prior to 1955 and through the relevant time period, Waste Materials were disposed at the Abbott farm in Long Grove, Illinois. Also during this time period, Waste Materials which are believed to have included organics, solvents, heavy metals and activated sludge, were incinerated or land disposed at Abbott's North Chicago Facility. Also, during the relevant time period activated sludge from the industrial wastewater plant at Abbott's North Chicago Facility was land disposed at the Abbott Laboratories Skokie Warehouse, Skokie Highway at 22nd Street, North Chicago, Illinois.

(f) Abbott lacks sufficient information to respond to Interrogatory 3(f).

(g) Abbott lacks sufficient information to respond to Interrogatory 3(g).

(h) Abbott lacks sufficient information to respond to Interrogatory 3(h).

Interrogatory No. 4:

Did Defendant, or anyone on Defendant's behalf, arrange for the disposal or treatment, or arrange for the transportation for disposal or treatment, of Waste Materials to the Tecum Creek/Edwards' Field Site? If you answered in the affirmative, identify:

- (a) every date on which such disposal took place;
- (b) for each Transaction, the nature of each Waste Material, including the chemical content, characteristics, physical state (e.g., solid, liquid);
- (c) the owner(s) of each Waste Material so accepted or transported;
- (d) the quantity of each Waste Material involved (weight or volume) in each Transaction and the total quantity for all Transactions;
- (e) all tests, analyses, and analytical results concerning each Waste Material;
- (f) the Person(s) who selected the Site as the place to which each Waste Material was to be transported;
- (g) the amount paid in connection with each Transaction, the Persons making such payment(s) and the Person(s) receiving such payment(s);
- (h) what was actually done to each Waste Material once it was brought to the Site; and
- (i) the type and number of container(s) in which each Waste Material was contained when it was accepted for transport and all markings on such containers.

RESPONSE:

Abbott objects to the term "Waste Material(s)" in this interrogatory as rendering the interrogatory and each of its

suspends vague, overbroad and unduly burdensome. Under CERCLA and the allegations of the Complaint in this matter, Abbott's alleged liability to plaintiffs can be premised only upon Abbott's alleged disposal or arrangement for disposal, at the Yeoman Creek Site of "hazardous substances" as that term is defined in 42 U.S.C. §9601(14). The term "Waste Materials" extends beyond "hazardous substances" to include the vague and ambiguously-defined terms "Pollutant" and "Contaminant", the disposal or arranging for disposal of which would not give rise to any liability under §107(a) of CERCLA, 42 U.S.C. §9607(a). Subject to and without waiving the foregoing objections, Abbott states as follows:

(a) For approximately two to five months prior to the closing of the landfill, certain "Waste Materials", as defined in Plaintiff's First Set of Interrogatories, are believed to have been taken from the Abbott Park Facility to the Yeoman Creek landfill.

(b) It is believed that certain office trash, cafeteria waste, empty bags, yard construction waste such as broken concrete and wood and fiber drums containing returned goods may have been sent to the Yeoman Creek landfill.

(c) Abbott objects to the use of the word "owner" as being vague and ambiguous. Subject to and without waiving this specific objection, Abbott states that the materials referred to in response to Interrogatory 4(b) were generated and collected at an Abbott facility.

(d) Abbott is without sufficient information to respond to Interrogatory 4(d).

(e) Abbott is without sufficient information to respond to Interrogatory 4(e).

(f) Abbott is without sufficient information to respond to Interrogatory 4(f).

(g) Abbott is without sufficient information to respond to Interrogatory 4(g).

(h) Abbott is without sufficient information to respond to Interrogatory 4(h).

(i) Some materials are believed to have been packed in fibre drums. Abbott is without sufficient information to respond to the remaining portions of Interrogatory 4(i).

Interrogatory No. 5:

On what dates did you operate at the Facility or Facilities?

RESPONSE:

Abbott objects to Interrogatory 5 in that it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of relevant evidence. Subject to and without waiving the foregoing objection, Abbott states that it operated its North Chicago Facility throughout the time period the Yeoman Creek landfill is alleged to have operated, and that it began construction of its Abbott Park Facility in the late 1960's.

Interrogatory No. 6:

Identify the prior and subsequent operators of the Facility or Facilities?

RESPONSE:

Abbott objects to Interrogatory 6 in that it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of relevant evidence. Subject to and without waiving the foregoing objections, see response to Interrogatory 5.

Interrogatory No. 7:

Are you a corporation, partnership or sole proprietor?

RESPONSE:

Corporation.

Interrogatory No. 8:

Identify all insurance which may be deemed to cover environmental claims relating to the Facility or Facilities from 1955 to the present by setting forth:

- (a) the name and address of the company that issued the policy or policies;
- (b) the identifying number of policy or policies;
- (c) the commencement and expiration dates of the policy or policies;
- (d) the type of insurance coverage (e.g., liability); and
- (e) the amount of policy coverage on a yearly basis, including the amount of any excess coverage.

RESPONSE:

See Attachment 1 to these Responses.

Sheldon A. Zabel
Sheldon A. Zabel
Gabriel M. Rodriguez
Eric L. Lohrenz
SCHIFF HARDIN & WHITE
7200 Sears Tower
Chicago, Illinois 60606
(312) 876-1000
Attorneys for Defendant
Abbott Laboratories

ABBOTT LABORATORIES
 UMBRELLA EXCESS LIABILITY INSURANCE
 POLICY YEAR 1953
 ("000" limited)

<u>Layer</u>	<u>Insurer</u>	<u>Policy Number</u>	<u>Insured</u>	<u>Dates</u>
0	USF & G	21	\$ 1,000	1-1-53 - 1-1-54
1	Lloyd's	21	1,000	1-1-53 - 1-1-54
	Lloyd's	(2)	1,000	1-1-53 - 1-1-54
			<u>2,000</u>	
2	Lloyd's	(2)	1,000	1-1-53 - 1-1-54
	Lloyd's	21	1,000	1-1-53 - 1-1-54
			<u>2,000</u>	
3	Zurich	21	1,000	1-1-53 - 1-1-54
			<u>1,000</u>	
	GRAND TOTAL		<u>\$ 5,000</u>	

- (1) NOTE: It is assumed that the primary insurance for 1954, 1955 and 1956 were consistent with 1953 and 1957 in providing \$250M limit per person and a limit of \$1 per recurrence and annual aggregate.
- (2) Records are not complete. However, there is a letter in the file making reference to this coverage for the years 1954, 1955 and 1956 EXCEPT FOR Zurich. It was assumed that the coverage was consistent with 1951, 1953, and 1957 through 1961.

EN:ga

2-6-79

ATTACHMENT 1

ABBOTT LABORATORIES
 UMBRELLA (EXCESS) LIABILITY INSURANCE
 POLICY YEAR 1956
 ("000" Omitted)

<u>Layer</u>	<u>Insurer</u>	<u>Policy Number</u>	<u>Insured</u>	<u>Dates</u>
0	USF & G	(2)	\$ 1,000	1-1-54 - 12-31-56
1	Lloyd's	(2)	1,000	1-1-54 - 12-31-56
	Lloyd's	(2)	1,000	1-1-55 - 12-31-56
			<u>3,000</u>	
2	Lloyd's	(2)	1,000	1-1-56 - 12-31-56
	Lloyd's	(2)	1,000	1-1-56 - 12-31-56
			<u>2,000</u>	
3	Zurich	(2)	1,000	1-1-56 - 12-31-56
	GRAND TOTAL		<u>\$ 5,000</u>	

- (1) NOTE: It is assumed that the primary insurance for 1954, 1955 and 1956 were consistent with 1953 and 1957 in providing \$250M limit per person and a limit of \$1M per occurrence and annual aggregate.
- (2) Records are not complete. However, there is a letter in the file making reference to this coverage for the years 1954, 1955 and 1956 EXCEPT FOR Zurich. It has been assumed that the coverage was consistent with 1951, 1953, and 1957 through 1961.

JN:js

2-5-79

ABECON LABORATORIES
 UMBRELLA (EXCESS) LIABILITY INSURANCE
 POLICY YEAR 1957
 ("000" Omitted)

<u>LAYER</u>	<u>INSURER</u>	<u>POLICY NUMBER</u>	<u>INSURED</u>	<u>DATE</u>
0	USF&G	001 183692	\$ 1,000	1-1-57 - 1-1-58
1	Lloyd's	109 & 180	<u>2,000</u> 3,000	1-1-57 - 1-1-58
2	Lloyd's	110, 181 & 182	<u>1,000</u> 2,000	1-1-57 - 1-1-58
3	Horion	98-16-199	<u>1,000</u> 2,000	1-1-57 - 1-1-58
4	Lloyd's Lloyd's	105, 111, 113, 186 106	2,900 <u>2,100</u>	10-14-57 - 1-1-58 10-14-57 - 1-1-58
	<u>\$10,000</u>	GRAND TOTAL	<u>\$10,000</u>	

- (1) NOTE: Primary insurance has a \$250M limit per person and a limit of \$1MM per occurrence and annual aggregate. All other insurance provides only per occurrence and annual aggregate excess limits over the primary \$1MM.
- (2) Not known. Although we have documentation that such policies exist including the expiration date, we are unable to confirm the inception date. It seems reasonable to assume 1-1-57.
- (3) Added to the first \$1MM is an additional layer of \$5MM for the period 10-14-57 - 1-1-58.

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ABBOTT LABORATORIES
 UMBRELLA EXCESS LIABILITY INSURANCE
 POLICY YEAR 1960
 ("000" Omitted)

	<u>Laver</u>	<u>Insurer</u>	<u>Policy Number</u>	<u>Insured</u>	<u>Excess</u>
0	\$ <u>1,000</u>	USF & G	COL260-51	\$ <u>1,000</u>	1-1-60 - 1-1-61
1	<u>1,000</u>	Lloyd's	119	<u>1,000</u>	1-1-61 - 1-1-62
	<u>3,000</u>	Lloyd's	121	<u>1,000</u>	
				<u>2,000</u>	
2	<u>1,000</u>	Lloyd's	122	<u>575</u>	
		Lloyd's	124	<u>80</u>	
	<u>4,000</u>	Lloyd's	125	<u>245</u>	
				<u>1,000</u>	
3	<u>1,000</u>	Zurich	8304333	<u>1,000</u>	
	<u>5,000</u>				
4	<u>5,000</u>	Lloyd's	125	<u>3,100</u>	
		Lloyd's	126	<u>1,900</u>	
	<u>10,000</u>			<u>5,000</u>	
5	<u>2,000</u>	Continental Casualty	RDX9987367	<u>2,000</u>	
	<u>12,000</u>				
6	<u>2,000</u>	General Re	X-2772	<u>2,000</u>	
	<u>14,000</u>				
7	<u>1,000</u>	Lloyd's	144	<u>555</u>	
		Lloyd's	145	<u>445</u>	
	<u>\$15,000</u>		GRAND TOTAL	<u>\$15,000</u>	

ABBOTT LABORATORIES
UMBRELLA EXCESS LIABILITY INSURANCE
POLICY YEAR 1961
"000" Omitted

<u>Layer</u>	<u>Insurer</u>	<u>Policy Number</u>	<u>Insured</u>
0 \$ 1,000	USF & G	CGL260451	\$ 1,000
1 1,000	Lloyd's	119	1,000
1,000	Lloyd's	121	1,000
1,000			1,000
2 1,000	Lloyd's	122	575
	Lloyd's	124	80
	Lloyd's	125	345
1,000			1,000
3 1,000	Zurich	9304338	1,000
1,000			
4 5,000	Lloyd's	125	3,100
	Lloyd's	126	1,900
10,000			5,000
5 2,000	Continental Casualty	RDX9987367	2,000
12,000			
6 2,000	General Re	X-2772	2,000
14,000			
7 1,000	Lloyd's	144	585
	Lloyd's	145	415
15,000			1,000
8 5,000	Employer's Surplus Lines	S10740	5,000
20,000			
20,000	GRAND TOTAL		20,000

(a) Effective 1/19/61

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ABBOTT LABORATORIES
 UMBRELLA (EXCESS) LIABILITY INSURANCE
 POLICY YEAR 1962
 ("000" Omitted)

<u>Laver</u>	<u>Insurer</u>	<u>Policy Number</u>	<u>Insured</u>
0 \$ 1,000	Aetna	8AL12316-RRY	\$ 1,000
1 2,000	Lloyd's	119	1,000
<u>3,000</u>	Lloyd's	121	<u>1,000</u>
			<u>2,000</u>
2 1,000	Lloyd's	122	575
	Lloyd's	124	50
<u>4,000</u>	Lloyd's	125	<u>245</u>
			<u>1,000</u>
3 1,000	Zurich	8304338	1,000
<u>5,000</u>			
4 5,000	Lloyd's	125	3,100
	Lloyd's	126	1,900
<u>10,000</u>			<u>5,000</u>
5 2,000	Continental Casualty	RDX9987367	2,000
<u>12,000</u>			
6 2,000	General Re	X-2772	2,000
<u>14,000</u>			
7 1,000	Lloyd's	144	585
	Lloyd's	145	415
<u>15,000</u>			<u>1,000</u>
8 5,000	Employer's Surplus Line	S10740	5,000
<u>\$20,000</u>			
	GRAND TOTAL		<u>\$20,000</u>

ABBOTT LABORATORIES
 UMBRELLA (EXCESS) LIABILITY INSURANCE
 POLICY YEAR 1963
 ("000" Omitted)

<u>Laver</u>	<u>Insurer</u>	<u>Policy Number</u>	<u>Insured</u>
0 \$ 1,000	Aetna	8AL14390-SRY	\$ 1,000
1 2,000	Lloyd's	119	1,000
	Lloyd's	121	1,000
<u>3,000</u>			<u>2,000</u>
2 1,000	Lloyd's	122	675
	Lloyd's	124	50
	Lloyd's	125	245
<u>4,000</u>			<u>1,000</u>
3 1,000	Zurich	8304338	1,000
<u>3,000</u>			
4 5,000	Lloyd's	125	3,100
	Lloyd's	126	1,900
<u>10,000</u>			<u>5,000</u>
5 2,000	Continental Casualty	RDX9987367	2,000
<u>12,000</u>			
6 2,000	General Re	X-2772	2,000
<u>14,000</u>			
7 1,000	Lloyd's	144	585
		145	415
<u>15,000</u>			<u>1,000</u>
8 5,000	Employer's Surplus	S10740	5,000
<u>\$20,000</u>	GRAND TOTAL		<u>\$20,000</u>
7-1-63 - 11/15/63	Aetna	8XS 6SC	<u>\$25,000</u>
11-15-63 - 12-31-63	Aetna	8XS 6SC	<u>\$35,000</u>

ABBOTT LABORATORIES
 UMBRELLA (EXCESS) LIABILITY INSURANCE
 POLICY YEAR 1964
 ("000" Omitted)

	<u>Laver</u>	<u>Insurer</u>	<u>Policy Number</u>	<u>Insured</u>
0	\$ 1,000	Aetna	8AL16620-SR(Y)	\$ <u>1,000</u>
1	<u>35,000</u>	Aetna	8XS-6SC	<u>35,000</u>
	<u>\$36,000</u>		GRAND TOTAL	<u>\$36,000</u>

0	\$ 1,000	Aetna	8AL16620-SR(Y)	\$ <u>1,000</u>
1	<u>50,000</u>	Aetna	8XS-6SC	<u>50,000</u>
	<u>\$51,000</u>		GRAND TOTAL	<u>\$51,000</u>

- (a) 1-1-64 thru 3-24-64
 (b) 3/24/64 thru 12/31/64

ABBOTT LABORATORIES
 UMBRELLA (EXCESS) LIABILITY INSURANCE
 POLICY YEAR 1965
 ("000" Omitted)

	<u>Layer</u>	<u>Insurer</u>	<u>Policy Number</u>	<u>Insured</u>
0	\$ 1,000	Aetna	SAL16620-SR(Y)	\$ <u>1,000</u>
1	<u>50,000</u>	Aetna	SXS-6SC	<u>50,000</u>
	<u>\$51,000</u>	GRAND TOTAL		<u>\$51,000</u>

ABBOTT LABORATORIES
 UMBRELLA (EXCESS) LIABILITY INSURANCE
 POLICY YEAR 1966
 ("000" Omitted)

<u>Laver</u>	<u>Insurer</u>	<u>Policy No.</u>	<u>Insured</u>
0 \$ 1,000	Aetna	8AL0205445R(Y)	\$ 1,000
1 50,000	Aetna	8XS-6SC	50,000
<u>51,000</u>			
2(a) 25,000	Employer's Surplus	S1602760	5,000
	Travelers	EX 2996715	10,000
	Aetna C & S	8XS6 SC	2,000
	Fireman's Fund	XL 92221	1,000
	Lloyd's	6033581	6,000
<u>76,000</u>			<u>25,000</u>
3(b) 15,000	Continental Cas.	RDX 9230195	1,000
	Lexington	CG400678	2,000
	Travelers	EX 2998942	5,000
	North Star	NSX 5907	1,200 (c)
	Home	HEC9557807	1,800
	Home	HEC9557599	4,000
<u>91,000</u>			<u>15,000</u>
4 2,500	Lloyd's	CL98633/124459	2,500 (c)
<u>\$93,500</u>	GRAND TOTAL		<u>\$93,500</u>

(a) Effective 6-3-66

(b) Effective 11-16-66 to 1-1-70

(c) Reduced from \$30M on effective date of policy

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ABBOTT LABORATORIES
 UMBRELLA (EXCESS) LIABILITY INSURANCE
 POLICY YEAR 1967
 ("000" Omitted)

<u>Laver</u>	<u>Insurer</u>	<u>Policy No.</u>	<u>Insured</u>
0 \$ 1,000	Aetna	8AL097608SR(Y)	\$ 1,000
1 <u>50,000</u> <u>51,000</u>	Aetna	8XS33SC	<u>50,000</u>
2 25,000	Employers Surplus	S16-02760	5,000
	Travelers	EX2996715	10,000
	Fireman's Fund	XL92221	1,000
	Lloyd's	6033581	5,000
	Aetna	8XS6SC	<u>2,000</u>
			<u>25,000</u>
3 15,000	Continental Cas.	RDX9230195	2,000
	Lexington	CG400678	2,000
	North Star	NSX5907	1,200
	Home	HEC 955 7599	4,000
	Home	HEC 955 7807	1,800
	Travelers	EX2998942	<u>5,000</u>
			<u>15,000</u>
4 <u>2,500</u>	Lloyd's	CL98633	<u>2,500</u>
<u>\$93,500</u>	GRAND TOTAL		<u>\$93,500</u>

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5-9-78

ABBOTT LABORATORIES
 UMBRELLA (EXCESS) LIABILITY INSURANCE
 POLICY YEAR 1968
 ("000" Omitted)

	<u>Layer</u>	<u>Insurer</u>	<u>Policy No.</u>	<u>Insurer</u>	<u>%</u>	<u>Self- Assumed</u>	<u>%</u>
0	<u>\$1,000</u>	Aetna	8AL097608SR(Y)	\$ 1,000			
1	<u>50,000</u>	Aetna	8XS 33SC	<u>50,000(a)</u> <u>49,600(b)</u> <u>400(c)</u>	100		
	<u>51,000</u>						
2	<u>25,000</u>	Employer's Surplus	S 1602760	5,000			
		Eagle Star	9402193	1,500(d)			
		Travelers	EX2996715	10,000			
		Aetna C & S	8XS6000SC	500(e)		500(f)	
		Fireman's Fund	XL92221	1,400			
		Lloyd's	6033581	<u>6,600</u>			
	<u>76,000</u>			<u>25,000</u>	98	<u>500</u>	
3	<u>15,000</u>	Continental Cas.	RDX9230195	1,000			
		Lexington	CG400678	2,000			
		North Star	NSX 5907	1,200			
		Home	HEC9557599	4,000			
		Home	HEC9557807	1,800			
		Travelers	EX2998942	<u>5,000</u>			
	<u>91,000</u>			<u>15,000</u>			
4	<u>2,500</u>	Lloyd's	CL98633/124459	<u>2,500</u>			
	<u>93,500</u>						
5	<u>1,000</u>	Federal	7737-85-84	1,000			
	<u>94,500</u>						
6	<u>720</u>	Lloyd's	125003/4/125111	<u>720</u>			
	<u>95,220</u>						
7	<u>4,000</u>	Continental Cas.	RDX019125228	<u>4,000</u>			
	<u>99,220</u>						
8	<u>475</u>	Lloyd's	K20518	<u>475</u>			
	<u>\$99,695</u>	GRAND TOTAL		<u>\$99,695</u>			

- (a) 1-1-68 - 9-29-68
 (b) 9-29-68 - 1-9-69
 (c) 9-29-68 - 3-9-69
 (d) 10-31-68 - 6-3-69
 (e) 1-1-68 - 10-31-68
 (f) \$500M effective 10-31-68

IN: 10 - 1-1-70

ABBOTT LABORATORIES
 UMBRELLA (EXCESS) LIABILITY INSURANCE
 POLICY YEAR 1969
 ("000" Omitted)

<u>Laver</u>	<u>Insurer</u>	<u>Policy No.</u>	<u>Insurer</u>	<u>Self- Assumed</u>
0 <u>\$ 1,000</u>			\$ 1,000	
1 <u>50,000</u> <u>51,000</u>	Aetna	8XS33SC	<u>50,000(a)</u>	
2 25,000	Employer's Surplus	516 02760	5,000	
	Eagle Star	9402193	500	100
	Travelers	EX2996715	10,000	
	Fireman's Fund	XL92221	1,400	
	Lloyd's	6033581	6,100(c)	500
	Aetna		(d)	
<u>76,000</u>				
3 15,000	Continental Cas.	RDX9230195	1,000	
	Lexington	CG400678	2,000	
	North Star	NSX5907	1,200	
	Home	HEC 9557599	4,000	
	Home	HEC 9557807	1,800	
	Travelers	EX2998942	<u>5,000</u>	
<u>91,000</u>			<u>15,000</u>	
4 <u>2,500</u> <u>93,500</u>	Lloyd's	CL98633/124459	<u>2,500</u>	
5 <u>1,000</u> <u>94,500</u>	Federal	7737-85-84	<u>1,000</u>	
6 <u>720</u> <u>95,220</u>	Lloyd's	125003/4/125111	<u>720</u>	
7 <u>4,000</u> <u>99,220</u>	Continental Cas.	RDX D1925228	<u>4,000</u>	
8 <u>475</u>	Lloyd's	K20516	<u>475</u>	
<u>\$99,695</u>	GRAND TOTAL		<u>\$99,695</u>	

- (a) 849,037 effective 3-9-69 when American Home picked up \$300M - Policy No. 355545
 (b) Effective 6-3-69 coverage afforded was \$500
 (c) Abbott S/A \$5MM effective 1-1-69
 (d) \$5,000 Aetna - 08 X 56,000 SC - Effective 6-3-69 to 1-1-70

JN:jz

5-9-78



ABBOTT

Office of
General Counsel

Abbott Laboratories
One Abbott Park Road
Abbott Park, Illinois 60064-3500

BY FEDERAL EXPRESS

August 7, 1989

Ms. Carolyn D. Bohlen
Superfund Program Management
Branch SH5M-12
U.S. Environmental Protection Agency
230 South Dearborn Street
Chicago, Illinois 60604

RE: Request for Information
Yeoman Creek Landfill (Waukegan, IL)

Dear Ms. Bohlen:

Attached is Abbott Laboratories' response to USEPA's June 14, 1989 Request for Information concerning Yeoman Creek Landfill in Waukegan, Illinois. As you are aware, Abbott stated in its first response that it had conducted a diligent record search and had conducted a diligent interviewing process of present and former employees and had not discovered any records or knowledge regarding use of the site by Abbott for generation, storage, treatment or disposal of hazardous substances, pollutants, and contaminants. Your office then advised Abbott that our response was deficient. Subsequently, on July 11, 1989, I had a telephone conversation with Peggy Andrews, Assistant Regional Counsel for the USEPA Region V, at which time Ms. Andrews advised me that the attached response would be acceptable to the USEPA as the response to both the February 7, 1989 and June 14, 1989 Requests for Information. Ms. Andrews further advised me that if Abbott also supplied the USEPA with the names of each present and former Abbott employee that was identified and then contacted by Abbott as possibly having any knowledge regarding any relationship between Abbott and the Yeoman Creek Landfill, then the USEPA would permit Abbott to review information pertaining to Abbott's alleged involvement with Yeoman Creek Landfill currently in USEPA's possession.

Thereafter, Abbott was apprised by one of its employees of information that placed Abbott at the site during the relevant

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Ms. Carolyn D. Bohlen
August 7, 1989
Page 2

time frame. We immediately advised Ms. Andrews of this information, and in order to fully investigate the new information, Abbott was granted an extension to file its response to the June 14, 1989 Request for Information until August 8, 1989.

With respect to the attached response, if relevant information is made available to Abbott during our review of USEPA information which indicates Abbott did deliver hazardous materials to the site, Abbott will take appropriate further action to determine whether it has any additional information, and if so, we will supplement our response accordingly.

Further, please note that on February 27, 1989 Abbott filed a request under the Freedom of Information Act, RIN #0607-89. We still have not received a response to said request. Please make the necessary inquiries with respect to Abbott's request.

Very truly yours,

David S. Fishman
Attorney

DSF:dap

Attachment

cc: Peggy Andrews

bcc: Laurie Breitkopf
Susan Franzetti
Pat Guaglianone

(18-1198y-24/25)

00000114

ABBOTT LABORATORIES' RESPONSE TO
104(e) REQUEST FOR INFORMATION

1. After a diligent review of our records and a diligent interviewing process of present and former employees that may have had some knowledge of Abbott's waste disposal program during the years 1959 through 1969, it appears that Abbott hauled some of its general non-hazardous refuse to the site. During the time period in question, Abbott had a non-hazardous waste disposal department that used a rear-end compactor. This truck made regular runs through Abbott's facilities, picked up non-hazardous waste and hauled it to local landfills. Abbott believes that it hauled general non-hazardous refuse to Yeoman Creek for a period of approximately three to six months during 1969. This general refuse included ordinary office refuse; corrugated boxes from the warehouse; refuse from the cafeteria; filter cake from fermentation processes which consisted of activated charcoal, filter aids, such as diatomaceous earth, and other inert solids (e.g., soy grits); and innocuous solid laboratory waste from diagnostic research which was autoclaved as a standard operating procedure. In addition, Abbott also hauled to the site unused hospital products from its manufacturing operations which had been rejected as nonconforming or as having exceeded their expiration dates and which were still in their original packaging. These products were made from glass and plastics and bore the Abbott logo. All of the above described materials are still generated today, are not hazardous, and would not have been hazardous during the period in question.

No records currently exist concerning the hauling of general refuse to the site. Also, during the relevant time period, no analyses were made of the general refuse shipments hauled to the site. Accordingly, Abbott's investigation has not yet been able to determine with certainty whether occasionally minute amounts of materials that today are deemed hazardous could have been accidentally placed in the general refuse dumpster and then picked up by Abbott's truck. Abbott also does not have any knowledge or information regarding the types or quantities of hazardous materials which could have been included in the general refuse. It was an established Abbott policy and procedure during the years in question to separate general refuse from any hazardous material.

2. Given the response to Question No. 1, no response to this Question is necessary at this time.
3. No
4. None
5. No known records
6. Given the response to Question No. 1, no response to this Question is necessary at this time.

00000115

7. Given the response to Question No. 1, no response to this Question is necessary at this time.
8. Given the response to Question No. 1, no response to this Question is necessary at this time.
9. Given the response to Question No. 1, no response to this Question is necessary at this time.
10. Given the response to Question No. 1, no response to this Question is necessary at this time.
11. Given the response to Question No. 1, no response to this Question is necessary at this time.
12. Given the response to Question No. 1, no response to this Question is necessary at this time.
13. In preparing its response hereto, Abbott interviewed the following present and past employees:
 - a) Mr. Richard H. Kessler
Abbott Laboratories
1401 North Sheridan Road
North Chicago, IL 60064-4000

Manager, North Chicago Plant Facilities
 - b) Mr. Donald Spaulding
Abbott Laboratories
1401 North Sheridan Road
North Chicago, IL 60064-4000

Truck driver, Lake County Waste Disposal
 - c) Mr. William Barker (retired)
Abbott Laboratories
1401 North Sheridan Road
North Chicago, IL 60064-4000

Manager, Lake County Environmental Control
 - d) Mr. Lynn Hoselton
Abbott Laboratories
1401 North Sheridan Road
North Chicago, IL 60064-4000

Maintenance Engineering Department
 - e) Mr. Sanford White
Abbott Laboratories
One Abbott Park Road
Abbott Park IL 60064-3500

Manager, Safety and Health Department C0000116
Diagnostic Division

f) Mr. James Moomey
Abbott Laboratories
1401 North Sheridan Road
North Chicago, IL 60064-4000

Manager, Safety and Health Department
Pharmaceutical Division

14. No knowledge of any such information or documents.

Submitted this _____ day
of August, 1989:

ABBOTT LABORATORIES

By: _____
Patricia A. Guaglianone
Environmental Engineer

(18-1198y-26/28)

00000117

ABBOTT LABS

DEPOSITION EXERPTS

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

WAUKEGAN COMMUNITY SCHOOL)
DISTRICT NO. 60, et al.,)
Plaintiffs,)
v.) Case No. 92 C 7592
ABBOTT LABORATORIES, et al.,) Judge Leinenweber
Defendants.) Magistrate Judge Rosemond

July 30, 1993
9:30 a.m.

The deposition of OLE KIRKEGAARD resumed
pursuant to adjournment at Suite 7200, 233 South
Wacker Drive, Chicago, Illinois.

PRESENT:
KEATING, MUETHING & KLEKAMP,
(One East Fourth Street,
Cincinnati, Ohio 45202), by:
MR. JEROME C. RANDOLPH,
appeared on behalf of the Plaintiffs;
LATHROP & NORQUIST,
(2600 Mutual Benefit Life Building,
2345 Grand Avenue, Suite 2500,
Kansas City, Missouri 64108-2684), by:
MR. WILLIAM G. BECK,
MS. TERESA J. STEWART,
appeared on behalf of Browning-Ferris
Industries of Illinois, Inc.;
WILDMAN, HARROLD, ALLEN & DIXON,
(225 West Wacker Drive, Suite 3000,
Chicago, Illinois 60606-1229), by:
MR. THOMAS W. DAGGETT,
appeared on behalf of
Waukegan Park District;

PRESENT: (Continued)
SCHIFF HARDIN & WAITE,
(7200 Sears Tower,

1 of question marks.
 2 Is that your handwriting?
 3 A. No.
 4 Q. Okay. Yesterday I think you said, while
 5 Mr. Winters was questioning you, that Abbott
 6 Laboratories had used the Yeoman Creek site.
 7 A. Yes.
 8 Q. Okay. I think you said you knew that
 9 because you saw their trucks.
 10 A. Yes.
 11 Q. Okay. Can we talk a little bit about
 12 that?
 13 I'd like to know when it was that you
 14 first saw Abbott Laboratory trucks at the
 15 landfill.
 16 A. I saw their trucks pulling into the
 17 landfill in the early sixties.
 18 Q. Okay. How long did that continue that
 19 you saw those trucks?
 20 A. Till the late sixties.
 21 Q. Okay. When you say "early sixties," did
 22 you see them there before 1965?
 23 A. Yes.
 24 Q. Before 1964?

1 A. Yes.
 2 Q. You didn't see them before 1960 though.
 3 A. I don't remember.
 4 Q. What did these trucks look like?
 5 A. White trucks.
 6 Q. Did they have markings?
 7 A. Yes. Each doors was marked "Abbott
 8 Lab."
 9 Q. When you say "doors," which doors are
 10 you talking about?
 11 A. The left and the right door.
 12 Q. The driver and the passenger door?
 13 A. Yes.
 14 Q. Were those the only identifying markings
 15 on the truck?
 16 A. (No response.)
 17 Q. Is that a yes?
 18 A. They had markings 1 and 2. They had two
 19 trucks.
 20 Q. They had two trucks?
 21 A. Yes.
 22 Q. And you could tell the difference
 23 between Truck 1 and Truck 2?
 24 A. They had a 1 on the cab and a 2 on the

1 other cab. Otherwise, they look alike.
 2 Q. They were identical in every other

3 respect?
4 A. Yes.
5 Q. How big were they?
6 A. Leach packers, 25 cubic yard capacity,
7 rear-loader and Mack engine.
8 Q. How often did you see Abbott trucks at
9 the landfill?
10 A. In the early sixties, I saw them two or
11 three times a week.
12 Q. How about later on in the late sixties?
13 A. More often.
14 Q. Do you know how often? Can you put a
15 number to it?
16 A. Maybe four times.
17 Q. Four times a week?
18 A. Yes.
19 Q. Do you know who the driver was?
20 A. I didn't know the drivers.
21 Q. Did you ever talk to them?
22 A. Not in the early sixties, no.
23 Q. Did you talk to them in the late
24 sixties?

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1 A. Yes.
2 Q. Who did you talk to?
3 A. In the late sixties, Abbott Laboratory
4 called Waukegan Disposal Service regarding their
5 services. They wanted a representative from
6 Waukegan Disposal to come down to Abbott
7 Laboratories' property to do a survey, a route
8 survey, and I was the one that went down there.
9 Q. You did?
10 A. Yes.
11 Q. To do a survey of Abbott routes?
12 A. Yes.
13 Q. When was this?
14 A. In the late sixties.
15 Q. Who was it that called you?
16 A. I don't recall his name.
17 Q. Before we go into this, did you ever
18 talk to any of the drivers --
19 A. No.
20 Q. -- for Abbott Labs?
21 MR. RANDOLPH: You mean about doing the survey
22 or at any time for any reason?
23 MR. RODRIGUEZ: Any time for any reason.
24 MR. RANDOLPH: Go ahead.

470

1 MR. RODRIGUEZ: The question I asked a couple
2 minutes ago.
3 BY THE WITNESS:
4 A. Yes, at the survey.
5 BY MR. RODRIGUEZ:

6 Q. Okay. When was this survey done?
7 A. In the late sixties.
8 Q. Do you know when?
9 A. Either '68 or '69.
10 Q. Okay. You don't recall the name -- I'm
11 sorry. I missed that.
12 Do you remember who you talked to --
13 A. No.
14 Q. -- or who called you?
15 A. I don't remember his name.
16 Q. Did you go alone?
17 A. Yes.
18 Q. Was this in the morning, in the
19 afternoon, do you remember?
20 A. That was in the morning.
21 Q. Was it a weekday or a weekend?
22 A. The survey was supposed to be a whole
23 week starting on a Monday morning early.
24 Q. Did you go there every day?

471

1 A. Yes.
2 Q. For a whole week?
3 A. Yes.
4 Q. How long were you at the plant?
5 A. From 6:30 to about 2:30.
6 Q. Each day?
7 A. Each day.
8 Q. Where was the plant?
9 A. At the lakefront in North Chicago.
10 Q. Okay. What did you do there?
11 A. Like I said, I was supposed to take a
12 survey of the routes. I drove the route with the
13 truck No. 2 and wrote down every stop. I wrote
14 down every stop he made, whatever he picked up, how
15 long it took him to pick it up and what kind of
16 material it was.
17 Q. What was the purpose of the survey?
18 A. When they called us, they wanted to see
19 would it be more practical to contract it out
20 through an outside hauler or continue as they were
21 doing.
22 Q. You made this run every day for a week?
23 A. Yes.
24 Q. The same run every day for a week?

472

1 A. Yes.
2 Q. Now, who drove on this route with you?
3 A. One of the drivers. His nationality was
4 Mexican. He spoke very little English.
5 Q. Do you remember his name?
6 A. No.
7 Q. Do you know what he did for the company?
8 A. Yes. He was the driver on that

9 particular truck.
10 Q. Did you talk to him during the week
11 about Abbott Laboratories in particular?
12 A. We talked very little due to we didn't
13 understand each other very well.
14 Q. Okay. When you did this survey
15 beginning in the morning, and I think you said to
16 mid-afternoon, can you tell me what the route was
17 like, what you were doing?
18 A. Yes. Abbott Laboratory at the lakefront
19 is like a little city by itself. They have
20 buildings and alleys left and right. We started in
21 one end of the plant in the alleys, and we kept on
22 picking up dumpsters and barrels, and we kind of
23 made a route from one end of the plant to the
24 other. At each location where we stopped I wrote

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1 down what they had, what size of containers they
2 had, what kind of material they had and the time on
3 it, how long it took to do it.
4 Q. How many containers were there?
5 A. Anywhere between 40 and 60.
6 Q. Do you remember the route?
7 A. Yes.
8 Q. Do you want to try to draw it for me?
9 MR. RANDOLPH: Do you remember well enough to
10 draw it?
11 MR. RODRIGUEZ: I think he said he remembered
12 it.
13 BY THE WITNESS:
14 A. I remember part of it. I'll do my
15 best.
16 The best I can do is actually to -- the
17 main entrance is here (indicating). They had the
18 big office building here (indicating). Down here
19 was the main big building (indicating). I would
20 say over here they had buildings after buildings,
21 even smaller buildings in this location here, and
22 down this end here was some larger buildings
23 (indicating). I would say they went like this type
24 of -- they had like alleys on both sides of the

474

1 buildings coming down this way and up this way
2 (indicating). They also had a building over on
3 this side of the street where we picked up daily
4 also (indicating).
5 This is 14th Street (indicating). We
6 picked up a couple locations there. I would say
7 this is like the locations we picked up down the
8 line where the drums and containers was sitting.
9 This is the marked containers. They continued all
10 over the place.
11 MR. RANDOLPH: Can we have this marked,

12 please?

13 (WHEREUPON, a certain document was
14 marked O. Kirkegaard Deposition
15 Exhibit No. 8, for identification,
16 as of 7/30/93.)

17 MR. RANDOLPH: Can I just mark a few things so
18 we have it clear on the record?

19 What Mr. Kirkegaard has drawn on an
20 8-1/2 x 11 yellow sheet of paper which is Exhibit 8
21 to his deposition is a drawing which has Sheridan
22 Road marked as "SH," I'm going to actually mark
23 that as "Sheridan," bounded on the south side by
24 16th Street, which is marked, and on the north side

475

1 by 14th Street. Opposite 14th Street he identified
2 a square as an office building.

3 THE WITNESS: And guardhouse.

4 MR. RANDOLPH: And guardhouse.

5 THE WITNESS: Yes.

6 MR. RANDOLPH: And I have identified it as
7 such on the exhibit.

8 He also has a large square running
9 parallel to Sheridan Road which he called the main
10 building --

11 THE WITNESS: Yes.

12 MR. RANDOLPH: -- which I have marked as
13 such.

14 He also has a number of smaller squares
15 which he has identified as smaller buildings and
16 lines running between the smaller squares which he
17 has identified as alleys, and along those lines
18 certain circles, smaller circles, which he has
19 identified as container pickup locations generally.
20 BY MR. RODRIGUEZ:

21 Q. Mr. Kirkegaard, I wanted to ask you,
22 first of all, the number of buildings that you put
23 down here, is this just representative or do you
24 remember exactly those number of buildings?

476

1 A. I do not.

2 Q. You don't?

3 A. No.

4 Q. I think you have here by my count about
5 15 smaller buildings and 3 larger buildings.

6 A. Here should be another building
7 (indicating). Can I put that on here? There
8 should be another building right here (indicating).

9 Q. Certainly.

10 A. Two of them like that here (indicating).

11 Q. Okay. By my count, then, I think you
12 have -- let's see, 10, 12, 13, 18 buildings.

13 Is that what you remember?

14 MR. RANDOLPH: He just testified that was

15 representative, not the exact number, which he
16 could not recall.
17 BY THE WITNESS:
18 A. I could not give you the exact amount --
19 BY MR. RODRIGUEZ:
20 Q. Is 18 --
21 A. -- total.
22 Q. Is 18 a fair estimate?
23 MR. RANDOLPH: If you remember. Don't guess.
24 BY THE WITNESS:

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1 A. I don't know.
2 BY MR. RODRIGUEZ:
3 Q. Could it have been ten?
4 A. Yes, it could be because some of the
5 buildings could have been merged into each other
6 type like that (indicating).
7 Q. Okay. Each of these circles that you
8 have indicated were pickup locations or containers?
9 A. Containers, yes.
10 Q. Okay. Were these regular containers
11 that were there each day?
12 A. Yes.
13 Q. Okay. When you drove by, was this a
14 container you would empty in the truck and return
15 the container to the door?
16 A. Yes.
17 Q. Okay. I think you had called some of
18 these drums.
19 A. Yes.
20 Q. Were these things metal drums?
21 A. There was drums, too, fiber drums. We
22 emptied them into the truck at some of the
23 locations.
24 Q. When you say "emptied them," does that

478

1 mean the drum went in the truck, too?
2 A. Some of them went in the truck. If the
3 bottom was out of them, we threw them all away, and
4 if they were okay, they would use them again to
5 fill up in the plant.
6 Q. Okay. And I notice that behind some of
7 these buildings you have indicated -- well, in some
8 buildings, you have four containers surrounding the
9 building.
10 Does that mean to suggest that there
11 were four separate pickups at one of these smaller
12 buildings?
13 A. Yes.
14 Q. Okay. So that in this area of
15 smaller --
16 MR. RANDOLPH: Excuse me.
17 (WHEREUPON, discussion was had

18 off the record between the witness
19 and Mr. Randolph outside the
20 hearing of other counsel and the
21 court reporter.)
22 BY MR. RODRIGUEZ:
23 Q. In this area down here of smaller
24 buildings to the southeast of the main building,

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1 then, in each of those locations there you have
2 four or five containers surrounding the buildings.
3 You recall each of those buildings as
4 having four or five containers around them?
5 A. Yes.
6 Q. Were all of these fiber drum containers?
7 A. They had all two cubic yard leach
8 containers.
9 Q. Every one of them was?
10 A. There was some yard and a half.
11 Q. Do you remember what percentage were two
12 and what percentage were a yard and a half?
13 MR. RANDOLPH: Don't guess again.
14 BY THE WITNESS:
15 A. I don't know.
16 BY MR. RODRIGUEZ:
17 Q. Are some of these circles here
18 representative of fiber drums?
19 A. No.
20 Q. The circles that you have drawn here are
21 all leach containers?
22 A. Yes.
23 Q. Okay. What proportion of the time would
24 you find fiber drums out there?

480

1 A. Some of the days there was drums sitting
2 next to the containers.
3 Q. Okay. I notice some of these circles
4 seem to be right in the middle of an alley. Is
5 this --
6 MR. RANDOLPH: Don't draw any more.
7 BY MR. RODRIGUEZ:
8 Q. Were all of these containers in the
9 alleys or next to the buildings, inside the
10 buildings? Where would you find them?
11 A. They were in the alleys next to the
12 buildings. I remember at the main building we had
13 to go inside, go up in the elevator, pick up some
14 containers up there, go back down to the ground
15 floor and pull the containers out and empty those
16 containers.
17 Q. So you actually went into the main
18 building.
19 A. Yes.
20 MR. RANDOLPH: The witness has drawn two lines

21 on the northeast side of the main building
22 indicating the area where they went into the
23 building up the elevator.
24 BY MR. RODRIGUEZ:

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1 Q. You actually went inside the building.
2 A. Yes, we did.
3 Q. You said you went to the second floor of
4 the building.
5 A. Yes.
6 Q. How many floors were in the building?
7 A. We only went to the second floor.
8 That's all I recall.
9 Q. Okay. Did you make this run once a day?
10 MR. RANDOLPH: You mean the run up the
11 elevator in the main building?
12 MR. RODRIGUEZ: The run throughout the entire
13 facility.
14 BY THE WITNESS:
15 A. Yes.
16 BY MR. RODRIGUEZ:
17 Q. So each day you would go and make all
18 these pickups and then what would you do?
19 A. As the time went, the truck get full,
20 and we went to the landfill and dumped, then
21 went -- I'm sorry.
22 Q. Would you have to stop and go to the
23 landfill before you completed the route?
24 A. Yes.

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1 Q. How often would you have to stop and go
2 to the landfill before you finished for the day?
3 A. At least once a day.
4 Q. I think you said this was Truck 2.
5 A. Truck 1.
6 Q. This was Truck 1 you were riding?
7 A. Yes.
8 Q. Okay. Was Truck 2 there also?
9 A. They used that as a spare truck.
10 Q. So that means Truck 2 did not operate
11 every day.
12 A. Yes.
13 Q. Either one truck was running or the
14 other one was running.
15 A. Yes.
16 Q. But both trucks weren't going at the
17 same time.
18 A. No.
19 Q. At 2:30, when you were done for the day,
20 did you just leave the facility at that time?
21 A. Yes.
22 Q. As you understood it, was that the end
23 of the regular garbage runs for this company?

1 Q. What percentage of the containers were
 2 full when you made some kind of a run like this?
 3 MR. RANDOLPH: If you remember.
 4 BY THE WITNESS:
 5 A. They were just about full all of them
 6 every time we got there.
 7 BY MR. RODRIGUEZ:
 8 Q. Always?
 9 A. Yes.
 10 Q. Did you stop at any location twice?
 11 A. Yes.
 12 Q. Which ones?
 13 A. When we finished the first round, we
 14 started all over again second round, and whatever
 15 containers was sitting outside, we emptied it.
 16 See, some of the employers came out and get the
 17 containers, pulled them inside, and after they get
 18 filled up, they put them out again so we just kept
 19 on going.
 20 Q. Let me understand this because I think a
 21 minute ago you said you made the run once a day.
 22 Are you saying you're making the run --
 23 A. I misunderstood you.
 24 Q. You drove this route more than once a

1 day?
 2 A. This route continued out during the
 3 whole day.
 4 Q. So how many times did you drive the
 5 route during the course of a day?
 6 A. I would say maybe twice.
 7 Q. You would get through the route twice in
 8 a day?
 9 A. Yes. Maybe two or three times.
 10 Q. Two or three times in a day?
 11 A. Yes. It all depends on how much trash
 12 there was out there and how much time it took.
 13 Q. Okay. Did sometimes you stay later than
 14 2:30?
 15 A. Yes.
 16 Q. When did you stop for the day on days
 17 you were there after 2:30?
 18 A. 3:30, 4:00 o'clock.
 19 Q. When did you know to stop?
 20 A. They were paid by the hours, the driver,
 21 and he said, "This is it for today," and I walked
 22 out.
 23 Q. So why would he stop some days at 2:30
 24 and other days at 3:30?

1 MR. RANDOLPH: If you know why the drivers did
2 what they did.
3 BY THE WITNESS:
4 A. I didn't know what drivers. I was just
5 doing what the driver was doing.
6 All I did on this survey was I had a
7 notebook and I wrote down everything what
8 happened. I didn't help him empty the containers
9 at all. He did all of the driving and everything.
10 I just followed him. Whatever he was doing, I
11 wrote down. I did a survey.
12 BY MR. RODRIGUEZ:
13 Q. Okay. So you yourself did not empty the
14 containers, is that right?
15 A. Yes.
16 Q. Okay. I guess your testimony now is
17 that this route was done two or three times a day.
18 MR. RANDOLPH: Object to the form of the
19 question. That has been his testimony. It was
20 asked and answered before, and he's now answered it
21 about three times.
22 MR. RODRIGUEZ: No. He's answered it two
23 different ways and I just want to make --
24 MR. RANDOLPH: The record speaks for itself.

1 MR. RODRIGUEZ: I just want to make sure I got
2 it clear so I want him to say it again.
3 MR. RANDOLPH: Well, okay. He has already
4 answered the question. He has told you in detail
5 that they did it two or three times. The record is
6 clear as could be. If you don't have it clear,
7 read the record again, but we are not going to keep
8 repeating ourselves. We'll be here forever and
9 ever.
10 MR. RODRIGUEZ: I want to know whether it was
11 two or three times.
12 MR. RANDOLPH: Did you do it two or three
13 times?
14 THE WITNESS: Yes.
15 MR. RANDOLPH: Could we take a short break?
16 We have been at it about an hour.
17 (WHEREUPON, a recess was had.)
18 MR. RODRIGUEZ: Let's go back on.
19 BY MR. RODRIGUEZ:
20 Q. Mr. Kirkegaard, I think you said that
21 this survey was conducted in the late sixties. In
22 '68 or '69 did you say?
23 A. Yes.
24 Q. Do you recall what month it was in?

1 A. In the summer months.

2 Q. In the summer?
3 A. Yes.
4 Q. When you went to the plant each morning,
5 did you have to check in at the guardhouse?
6 A. Yes.
7 Q. And you spoke to the guard?
8 A. Yes.
9 Q. Where did you go from there?
10 A. There was a guy waiting for me at the
11 guardhouse from Abbott Laboratories.
12 Q. Okay. Where did he take you?
13 A. He took me out to -- I can't recall what
14 buildings, but he took me out to where they had the
15 trucks sitting.
16 Q. Okay. Was this the fellow who was
17 driving the truck?
18 A. No. Somebody else.
19 Q. Do you remember who he was?
20 A. No.
21 Q. Were you there in a car?
22 A. Yes.
23 Q. Where did you park?
24 A. In the parking lot.

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1 Q. Where is the parking lot?
2 A. Could I --
3 MR. RANDOLPH: Yes.
4 BY THE WITNESS:
5 A. It is in the front of -- let's see.
6 This is all parking here along Sheridan Road, and
7 there was some more parking here (indicating).
8 MR. RANDOLPH: The witness has drawn two
9 rectangular figures on Exhibit No. 8, the first and
10 the long one running between the main building and
11 Sheridan Road, the second along Sheridan Road north
12 of the first both designated with slash lines
13 indicating parking spaces.
14 BY MR. RODRIGUEZ:
15 Q. You arrived at the plant at what time?
16 A. Between 6:30 and 7:00.
17 Q. Okay. Where did this gentleman take you
18 when he met you at the guardhouse?
19 A. He took me to the area where the truck
20 was sitting.
21 Q. Where were the trucks?
22 A. They were off of 16th Street, which
23 would be in this area here (indicating).
24 MR. RANDOLPH: The witness has made an X right

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1 off of 16th Street at the southeast corner of the
2 property.
3 BY MR. RODRIGUEZ:
4 Q. Okay. Were both trucks parked there?
5 A. I only saw one.

6 Q. Did you speak to the gentleman?
7 MR. RANDOLPH: Which gentleman?
8 MR. RODRIGUEZ: The person who took him to the
9 trucks.
10 BY THE WITNESS:
11 A. Yes.
12 BY MR. RODRIGUEZ:
13 Q. What did you talk to him about?
14 A. We talked about where to go to find the
15 truck.
16 Q. Did he tell you why you were doing this
17 survey?
18 A. No.
19 Q. He didn't talk about the survey at all?
20 A. Not at all.
21 Q. Was anybody else with you when you --
22 A. No.
23 Q. -- went to the truck?
24 A. No.

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1 Q. Did he meet you every morning?
2 A. Yes.
3 Q. When you got to the truck, was the
4 driver there or did you have to wait for him?
5 A. The driver was sitting waiting for me.
6 Q. Do you recall the progression of the
7 route?
8 A. No.
9 Q. Was the route the same every time?
10 A. Yes.
11 Q. Other than the indication you made of
12 the main building that you entered, did you ever
13 have to enter any of the other buildings?
14 A. No.
15 Q. Can you describe for me what you saw
16 when you entered the main building?
17 A. On the northeast side of the building,
18 there was a platform where two or three containers
19 was sitting out in the front. We went inside of
20 the overhead door right behind the platform, opened
21 the overhead door and in there was an elevator. We
22 went upstairs on the elevator to second floor,
23 picked up two or three two cubic yard containers,
24 went back down, pulled them out, emptied them,

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1 pulled them back in and took them back up to the
2 second floor.
3 Q. Took?
4 A. Took the containers back up to the
5 second floor again.
6 Q. Okay. This platform, was it like a
7 loading dock or something?
8 A. No. Ground level.

9 Q. Ground level?
10 A. Yes.
11 Q. How large were the containers at the
12 ground level?
13 A. Two cubic yards.
14 Q. When you were inside the building, once
15 you opened the overhead, could you see inside the
16 plant or was there just a small room there?
17 A. There was just an elevator shaft I
18 believe they call it.
19 Q. Any other doors?
20 A. No.
21 Q. Let's talk about those containers there
22 in that main building.
23 Could you see inside the containers?
24 A. Yes.

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1 Q. What did you see inside the container?
2 A. Office papers, small amount of
3 corrugated boxes.
4 Q. Is that it?
5 A. Yes.
6 Q. Was that true with the containers on the
7 inside as well?
8 A. Yes.
9 Q. Okay. Now, you say you picked up at all
10 these other smaller buildings as well.
11 A. Yes.
12 Q. Was the composition of the material
13 inside the containers at the other buildings the
14 same as that which you found in the main building?
15 A. No.
16 Q. What else did you find?
17 A. Some of the other buildings we picked up
18 different type of material. It looked like
19 molasses type of thing.
20 Q. Okay. Which buildings did you find the
21 molasses in?
22 MR. RANDOLPH: He's indicated that the
23 buildings on Exhibit 8 are representative, not
24 specific buildings, but with that --

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1 BY THE WITNESS:
2 A. It had to be south end of the complex.
3 BY MR. RODRIGUEZ:
4 Q. The two buildings south of the main
5 building?
6 A. Yes.
7 Q. Now, did all of the containers around
8 those two buildings have the molasses-like material
9 in them?
10 A. No.
11 Q. Just some of them?

12 A. Yes.
13 Q. How many, do you recall?
14 MR. RANDOLPH: Don't guess.
15 BY THE WITNESS:
16 A. I don't know.
17 BY MR. RODRIGUEZ:
18 Q. Less than half of them?
19 A. 40 percent.
20 Q. 40 percent of the containers?
21 A. In those two buildings, yes.
22 Q. What else was in the containers?
23 A. Corrugated, pieces of wooden pallets
24 busted up and small, little five-gallon pails of --

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1 Q. Were the pails empty?
2 A. Yes.
3 Q. What else?
4 A. Plastic one-gallon pails.
5 Q. Were those empty?
6 A. Yes.
7 Q. What else?
8 A. Floor sweepings.
9 Q. What else?
10 A. That's all I can remember.
11 Q. Office papers?
12 A. Very little in those containers.
13 Q. Okay. In those containers, what
14 percentage of it was corrugated?
15 MR. RANDOLPH: Don't guess. Again, if you
16 know a percentage, fine. Otherwise, stay with your
17 recollection.
18 BY THE WITNESS:
19 A. 20 percent.
20 BY MR. RODRIGUEZ:
21 Q. What percent was pallets?
22 A. About 15.
23 Q. How about office paper?
24 A. Two, three percent.

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1 Q. And floor sweepings?
2 A. Five I would say.
3 Q. And pails?
4 A. Five percent.
5 Q. What percent of it was the molasses-type
6 material?
7 A. 45 percent.
8 Q. I think you said earlier that 40 percent
9 or about four out of ten containers around these
10 buildings would have had molasses material at all
11 in them, right?
12 A. Yes.
13 Q. Do you recall how many containers were
14 around these two buildings?

15 MR. RANDOLPH: You mean specific number?
16 MR. RODRIGUEZ: Or an estimate.
17 BY THE WITNESS:
18 A. I don't recall the exact.
19 BY MR. RODRIGUEZ:
20 Q. Did you stop more than once at each
21 building?
22 A. Yes. During the day?
23 Q. No.
24 When you were on one route, on one turn

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1 around those buildings, was there more than one
2 pickup at each building?
3 A. Yes.
4 Q. Were there more than two pickups at
5 those buildings?
6 A. Some of them was more than two pickups.
7 Q. And those two buildings we're talking
8 about now?
9 A. Yes.
10 Q. How large were those containers?
11 A. Yard and a half mostly and some two
12 cubic yards.
13 Q. Did you see anything else in any
14 container in the facility that you haven't
15 mentioned yet?
16 A. There was 55-gallon drums sitting once
17 in a while, like I stated before, next to them with
18 bags, paper bags.
19 Q. Bags were in the drums?
20 A. Yes.
21 Q. They were paper bags?
22 A. Yes. Empty paper bags.
23 Q. Empty paper bags?
24 A. Yes.

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1 Q. What was it, a powder residue in the
2 empty paper bags?
3 A. It looks to me that way. It would have
4 been white powder in them.
5 Q. What color were the bags, do you
6 remember?
7 A. Brown-looking.
8 Q. How big were these bags?
9 A. I would say probably 100-pound bags, 50
10 to 100-pound bags.
11 Q. Now, can you tell me how big that is? I
12 mean, that would kind of depend on what was inside
13 of it, I guess.
14 A. About like this (indicating).
15 Q. About the size of this Exhibit 1?
16 A. Yes.
17 Q. Did they have markings on them?
18 A. Yes.

19 Q. Do you recall what they said?
20 A. No.
21 Q. Okay. Where did you find those? Can
22 you give me an approximation of which buildings you
23 would find those bags near?
24 A. With some of the other buildings is all

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1 I can say. I don't know specific which ones.
2 Q. Well, it wasn't in the main building?
3 A. No.
4 Q. It wasn't in the containers in those two
5 buildings south of the main building?
6 A. Right.
7 Q. So it was in some buildings other than
8 those.
9 A. To the east side of the complex.
10 Q. To the east side of the complex?
11 A. Yes.
12 Q. Now, these bags were inside the
13 55-gallon drums?
14 A. Some were and some were not. Some was
15 bundled up with string around them.
16 Q. Was there anything else in the 55-gallon
17 drum?
18 A. Sometimes there was a little floor
19 sweepings in them, too.
20 Q. Were these the fiber drums you talked
21 about earlier?
22 A. There was fiber drums and 55 gallon
23 steel drums, too.
24 Q. Okay. Were the steel drums used as

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1 regular containers that stayed there or did the
2 drums go on the truck?
3 A. They were used as regular containers.
4 They stayed there.
5 Q. So those were emptied into the truck and
6 then were replaced.
7 A. Yes.
8 Q. Do you recall anything else that was in
9 any container in the facility?
10 A. No.
11 Q. So you have told me everything you
12 remember ever seeing in any of those containers --
13 A. Yes.
14 Q. -- anywhere on the facility.
15 A. Yes.
16 Q. At the end of the week what did you do?
17 A. I don't understand your question.
18 Q. You had been taking notes.
19 A. Yes. I took a survey each day.
20 Q. What did you do with your notes?
21 A. Took them back to the office.

22 Q. At the end of each day did you take them
23 back?
24 A. Yes.

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1 Q. Did you review them?
2 A. Yes.
3 Q. Did you talk to anybody about them?
4 A. Yes.
5 Q. Who did you talk to about them?
6 A. Peder.
7 Q. This happened each day?
8 A. Yes.
9 Q. Was anybody else around when you and
10 Peder sat down to talk about your notes?
11 A. No.
12 Q. What did you tell Peder about the
13 survey?
14 A. Well, we talked about each location kind
15 of and how many containers that were there, and we
16 looked over the survey.
17 Q. This happened every day?
18 A. Yes.
19 Q. Did Peder ever go to Abbott?
20 A. I don't know.
21 Q. You don't know?
22 A. Not to my knowledge.
23 Q. Okay. During this week when this survey
24 was being conducted, did Peder go?

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1 A. I don't know.
2 Q. You talked to him every day though --
3 A. In the afternoon.
4 Q. -- about the Abbott survey?
5 A. Yes.
6 Q. And you don't know whether during that
7 week Peder himself went to the facility?
8 MR. RANDOLPH: Asked and answered about four
9 times.
10 BY THE WITNESS:
11 A. I don't know.
12 BY MR. RODRIGUEZ:
13 Q. You don't know?
14 A. I don't know.
15 Q. Did anybody else from your company go?
16 A. No.
17 Q. Did you talk to anybody else at the
18 company about this?
19 A. No.
20 Q. Do you still have your notes from that
21 survey?
22 A. No.
23 Q. What did you do when the survey was
24 complete?

1 A. We sat down and figured out what it
2 would cost to pick up Abbott Laboratories.
3 Q. Who sat down?
4 A. Pete and me.
5 Q. When did this happen?
6 A. In '68, '69.
7 Q. Was it, I mean, immediately after the
8 survey was complete?
9 A. Yes.
10 Q. Do you remember what you concluded?
11 A. We sent them a proposal.
12 Q. Okay. How long after you did the survey
13 did you send the proposal?
14 A. About a week to week and a half.
15 Q. Do you recall the details of the
16 proposal?
17 A. No.
18 Q. Do you have a copy of the proposal?
19 A. No.
20 Q. Do you know what happened to either your
21 survey or the proposal?
22 A. No.
23 Q. Do you think they might still be in
24 existence today?

1 MR. RANDOLPH: Don't guess. If you know.
2 BY THE WITNESS:
3 A. No.
4 BY MR. RODRIGUEZ:
5 Q. No, you don't think so?
6 A. No.
7 Q. Did you meet with anybody from Abbott
8 after you completed the survey?
9 A. Yes.
10 Q. Who did you meet with?
11 A. The guy that called up for the survey.
12 Q. Did you meet with him?
13 A. After we sent the proposal, I went down
14 there. He called me up. He wanted to talk to me
15 regarding that.
16 Q. And you went down there?
17 A. Yes.
18 Q. This was after you sent him the
19 proposal?
20 A. Yes.
21 Q. Do you remember who this person was in
22 terms of what his function was at the facility?
23 A. I believe the guy was a maintenance
24 superintendent.

1 Q. Did you meet or talk to anybody else
2 between the time of the end of the survey and the
3 time you went out to discuss the proposal with
4 him? Did you meet or talk to anybody from Abbott?
5 A. No.
6 Q. When you met with him, was it just you
7 and he or did Peder go with you?
8 A. Just him and me.
9 Q. And you went to Abbott to talk to him?
10 A. He gave me a phone call.
11 Q. And you went out there?
12 A. Yes.
13 Q. What did you talk about?
14 A. The proposal.
15 Q. What did he say?
16 A. He said they were looking it over, and
17 they would let us know.
18 Q. He called you out to tell you that?
19 MR. RANDOLPH: Do you know why he called you
20 out specifically?
21 THE WITNESS: There were certain things on the
22 proposal he wanted clarified or he didn't
23 understand.
24 BY MR. RODRIGUEZ:

1 Q. Is that all?
2 A. Yes.
3 Q. Did you ever get called by Abbott again?
4 A. No.
5 Q. Did they ever write you again?
6 A. No.
7 Q. Did you give Abbott a copy of your
8 survey and your notes from the survey?
9 A. Yes.
10 Q. That was included with the proposal?
11 A. Yes.
12 Q. Do you remember how large or what volume
13 of paper you had at the end of a week of notes?
14 A. About 10 to 15, 20 pages.
15 Q. Aside from the driver you rode with that
16 week, did you talk to any other drivers from
17 Abbott?
18 A. No.
19 Q. Have you ever spoken to any other
20 drivers or former drivers from Abbott?
21 A. No.
22 Q. Aside from he and this maintenance
23 supervisor who called you out, have you ever talked
24 to anybody from Abbott?

1 A. No.
2 Q. Did you ride the same truck the whole

3 week?
4 A. Yes.
5 Q. Did you have the same driver with you
6 the whole week.
7 A. Yes.
8 (WHEREUPON, Mr. Thomas W. Daggett
9 entered the deposition proceedings.)
10 BY MR. RODRIGUEZ:
11 Q. Your understanding was that you were
12 viewing the waste disposal of this particular plant
13 for the whole week?
14 A. Yes.
15 Q. At that time I think you said earlier
16 that the second truck was a backup truck, spare
17 truck.
18 A. Yes.
19 Q. Is there anything else you remember
20 about the composition of the waste, the time when
21 this report was put together, anything at all that
22 you remember about Abbott?
23 A. Nothing else.
24 Q. All of this material was taken to the

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1 Yeoman Creek Landfill during that week.
2 A. Yes.
3 MR. RODRIGUEZ: I don't think I have anything
4 further now.
5 David.
6 MR. MUSCHLER: Yes.
7 Mr. Kirkegaard, my name is David
8 Muschler. I represent Coral International.
9 EXAMINATION
10 BY MR. MUSCHLER:
11 Q. You made a statement yesterday
12 afternoon, I believe, that at some point in time
13 you knew bad stuff went into the site, referring to
14 the Yeoman Creek site.
15 Can you tell me at what point in time
16 you knew that bad stuff went into the site?
17 A. Yes.
18 Q. When was that time?
19 A. Waukegan Disposal had had Coral Chemical
20 as one of their accounts in the sixties.
21 Q. I'm not talking specifically about
22 Coral, but you made a general comment that you knew
23 that bad stuff went into the site.
24 When did you first realize that bad

1 IN THE UNITED STATES DISTRICT COURT
 2 NORTHERN DISTRICT OF ILLINOIS
 3 EASTERN DIVISION
 4 WAUKEGAN COMMUNITY SCHOOL)
 5 DISTRICT NO. 60, et al.,)
 6 Plaintiffs,)
 7 v.) Case No. 92 C 7592
 8 ABBOTT LABORATORIES, et al.,) Judge Leinenweber
 9 Defendants.) Magistrate Judge Rosemond

10
 11 August 19, 1993
 12 10:30 a.m.
 13

14 The deposition of OLE KIRKEGAARD resumed
 15 pursuant to adjournment at Suite 6600, 233 South
 16 Wacker Drive, Chicago, Illinois.
 17
 18
 19
 20
 21
 22
 23
 24

1 PRESENT:
 2 KEATING, MUETHING & KLEKAMP,
 3 (One East Fourth Street,
 4 Cincinnati, Ohio 45202), by:
 5 MR. JEROME C. RANDOLPH,
 6 appeared on behalf of the Plaintiffs;
 7 LATHROP & NORQUIST,
 8 (2600 Mutual Benefit Life Building,
 9 2345 Grand Avenue, Suite 2500,
 10 Kansas City, Missouri 64108-2684), by:
 11 MR. WILLIAM G. BECK,
 12 MS. TERESA J. STEWART,
 13 appeared on behalf of Browning-Ferris
 14 Industries of Illinois, Inc.;
 15 WILDMAN, HARROLD, ALLEN & DIXON,
 16 (225 West Wacker Drive, Suite 3000,
 17 Chicago, Illinois 60606-1229), by:
 18 MR. THOMAS W. DAGGETT,
 19 appeared on behalf of
 20 Waukegan Park District;
 21
 22
 23
 24

1 PRESENT: (Continued)
 2 SCHIFF HARDIN & WAITE,
 3 (7200 Sears Tower,

1 Q. Okay. You say "remainings"?
2 A. Some was liquid, wet, and some was
3 drying up.
4 Q. Okay. When you talk about empty paint
5 cans, were you talking about paint cans scrubbed
6 free of any ink residue or was there still ink
7 residue in them?
8 A. Still --
9 Q. I'm sorry. Paint cans with paint in
10 them?
11 A. Still residue in them, yes.
12 MS. STEIN: Again I'm going to have to voice
13 an objection here.
14 Are you speaking generally what he saw
15 over time for all the number of defendants or are
16 you speaking of a specific defendant? How are we
17 handling this here?
18 MR. RANDOLPH: He's describing -- well, I
19 think the questions speak for themselves. He's
20 describing what he meant by empty paint cans in his
21 testimony, in his deposition.
22 BY MR. RANDOLPH:
23 Q. I would like to ask you some questions
24 now about Abbott.

1 You were asked a number of questions by
2 Mr. Rodriguez about Abbott Laboratories.
3 Do you recall those questions?
4 A. Yes.
5 Q. You described certain garbage trucks of
6 Abbott that you had experience with during the time
7 that you were performing a survey at Abbott.
8 Do you recall that?
9 A. Yes.
10 Q. Did you ever see those garbage trucks at
11 the landfill at times other than when you conducted
12 this survey?
13 A. Yes.
14 Q. During what portion of the 1960s?
15 A. Mid-sixties to late sixties.
16 Q. Did you see them at Yeoman Creek?
17 A. Yes.
18 Q. Do you recall seeing them at Edwards
19 Field?
20 A. Yes.
21 Q. Okay. How frequently would you see
22 Abbott garbage trucks at the Yeoman Creek or
23 Edwards Field Landfills?
24 A. Two to three times a week.

1 Q. Could you describe --
2 MR. RODRIGUEZ: I missed that.
3 MR. RANDOLPH: "Two to three times a week."

4 BY MR. RANDOLPH:
5 Q. I think you testified these were leach
6 packers.
7 What size trucks were they?
8 A. 25 cubic yard, I believe.
9 Q. When you saw these garbage trucks, did
10 you ever see them unload their waste at the Yeoman
11 Creek or Edward Field sites?
12 A. Yes.
13 Q. How often did you see them unload the
14 waste at that site?
15 A. Maybe once a week.
16 Q. Did you notice anything unusual in the
17 waste that came out of the truck, the Abbott
18 trucks, when you saw them unload at the Yeoman
19 Creek Landfill?
20 A. Yes.
21 Q. What was that?
22 A. Smelly type of wet, brownish material.
23 Q. You described that wet, brownish type of
24 material as part of the waste during the time you

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1 conducted your survey at Abbott.
2 Did it appear to be the same type of
3 material?
4 A. Yes.
5 Q. Do you know if that material would go
6 under the name of filter cake?
7 A. I believe so, yes.
8 Q. Okay. Did you see any other types of
9 trucks of Abbott Laboratories at the Yeoman Creek
10 Landfill besides these garbage trucks?
11 A. Yes.
12 Q. What type of truck?
13 A. Flat bed.
14 Q. What do you mean by a flat bed truck?
15 A. It's a truck that's hauling bulky stuff
16 type of thing with no top on it.
17 Q. Okay. Was it a dump-type truck?
18 A. Yes.
19 Q. Did it have sides on the bed?
20 A. Yes.
21 Q. What color was that truck or trucks?
22 A. The cab was white.
23 Q. How often would you see those type of
24 Abbott trucks at the site?

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1 A. About once a month or so.
2 Q. Could you see what was in the flat bed
3 at the time you saw those trucks?
4 A. Yes.
5 Q. What did you see?
6 A. 55-gallon drums.

7 Q. Could you see whether they were empty or
8 full?
9 A. No.
10 Q. Approximately how many 55-gallon drums
11 would fit on the flat beds that you saw from Abbott
12 Laboratories?
13 A. Anywhere between 20 and 25, I believe.
14 Q. Could we spread out Kirkegaard Exhibit
15 No. 1, please?
16 Showing you what has previously been
17 identified as Exhibit 1 to your deposition, Mr.
18 Kirkegaard, during the various examinations, as I
19 say, over the last five days you have used
20 terminology to describe the various routes. It may
21 be in the record, but I want to make sure generally
22 we are consistent with the terminology.
23 You have talked, first of all, about a
24 Grand Avenue or Grand-Washington route. Could you

1 Service in its operation of Yeoman Creek and
2 Edwards Field Landfills?

3 A. Outstanding.

4 MR. BECK: That's all the questions I have.
5 Thank you, sir.

6 FURTHER EXAMINATION

7 BY MR. RODRIGUEZ:

8 Q. Hello, Mr. Kirkegaard. Do you remember
9 me?

10 A. Yes, indeed.

11 MR. BECK: It's okay, Mr. Kirkegaard. He
12 remembers you, too.

13 BY MR. RODRIGUEZ:

14 Q. When I talked to you about two and a
15 half weeks ago, we had talked about your having
16 seen Abbott trucks at the Yeoman Creek Landfill,
17 and I think at that time you told me quite clearly
18 that you remember seeing two trucks, that Abbott
19 had two trucks that drove to the Yeoman Creek
20 Landfill.

21 Do you remember that testimony?

22 A. Yes.

23 Q. I think, if I remember correctly, you
24 said you could tell that there were two trucks

1 because they were numbered 1 and 2, is that
2 correct?

3 A. Yes.

4 Q. You told me at that time that the two
5 trucks were leach packer trucks, is that correct?

6 A. Yes.

7 Q. I guess what I'd like to know is whether
8 your testimony now is that Abbott really had three
9 trucks. Is that correct?

10 A. Yes.

11 Q. And this third truck you described as a
12 flat bed, is that correct?

13 A. Yes.

14 Q. Before we talk about that truck, I guess
15 I'd like to know whether you have reviewed anything
16 or spoken to anybody who reminded you about this
17 third truck during the last two and a half weeks.

18 MR. RANDOLPH: Any conversations with counsel
19 you are not to disclose. Other than that, you can
20 disclose any conversations other than that.

21 BY MR. RODRIGUEZ:

22 Q. Well, have you talked to a lawyer about
23 that?

24 MR. RANDOLPH: Excuse me. I'm going to object

1 and instruct him not to answer what he has talked
2 to a lawyer about.

3 My instruction is do not disclose in

4 any, way shape or form any discussions that you had
5 with any lawyer in the last two weeks.
6 Other than that, the question is have
7 you had any discussions with anyone who reminded
8 you about another truck or Abbott truck during the
9 past two and a half weeks.
10 THE WITNESS: No.
11 MR. RODRIGUEZ: That's not the question.
12 BY MR. RODRIGUEZ:
13 Q. The question is whether you have
14 reviewed anything or talked to anybody that
15 reminded you about this third truck.
16 MR. RANDOLPH: That's two questions.
17 Have you reviewed anything that reminded
18 you about a third truck?
19 THE WITNESS: No.
20 MR. RANDOLPH: Okay. Then my instruction on
21 the second question is any discussions with anyone
22 besides counsel in which discussions of a third
23 truck took place during the past three weeks.
24 THE WITNESS: No.

1140

1 BY MR. RODRIGUEZ:
2 Q. Well, I'm going to ask you one more time
3 whether you have had any discussion with anybody
4 about this, and the reason why I want to know is
5 because there was a question about a fact that you
6 for some reason didn't remember two weeks ago and
7 now you do, and I'm just trying to find out what
8 the source of your memory is.
9 MR. RANDOLPH: Okay. I object to the
10 characterization. Number one, he was never asked
11 by you about any flat bed trucks, nor was he ever
12 asked a question were there any other Abbott trucks
13 that you saw during the period of the 1960s, so to
14 say that --
15 MR. RODRIGUEZ: That's not to say --
16 MR. RANDOLPH: Please let me finish.
17 To say that he omitted or forgot or
18 didn't give testimony relating to that third truck
19 in response to your questions is not accurate
20 because you never asked about the third truck, and
21 there was no reason for him to volunteer anything.
22 So I disagree with your characterization that he
23 has somehow come up with a new fact that he was
24 asked about and forgot two and a half weeks ago.

1141

1 He was simply not asked about it.
2 With regard to your specific question,
3 once again, I'm going to instruct him not to answer
4 any questions about conversations with counsel.
5 If you had any discussions with anyone
6 but counsel, then, relating to trucks at Abbott in

7 any way, shape or form in the last two and a half
8 weeks, please answer Mr. Rodriguez' question. Have
9 you?
10 THE WITNESS: No.
11 MR. RANDOLPH: And with regard to the part of
12 your question that asked him if he's had
13 discussions with counsel, I'm going to instruct him
14 not to answer.
15 MR. RODRIGUEZ: Okay. Well, with respect to
16 that question, I'm going to have it certified.
17 MR. RANDOLPH: Fine.
18 MR. RODRIGUEZ: I think the record speaks for
19 itself about what the question and answer was.
20 There was a question, "They had two trucks?" and
21 his answer was "Yes."
22 MR. RANDOLPH: The record will speak for
23 itself.
24 BY MR. RODRIGUEZ:

1142

1 Q. Let's talk about this third truck for a
2 moment.
3 Can you describe it for me?
4 A. The two trucks?
5 Q. The third truck.
6 A. The third truck.
7 MR. RANDOLPH: You are referring to the flat
8 bed truck?
9 MR. RODRIGUEZ: The truck we haven't spoken
10 about until today.
11 BY THE WITNESS:
12 A. Yes, that's a flat bed.
13 Can I just say one more thing? The two
14 trucks we talked about was garbage trucks, and
15 that's all we were talking about at the first time,
16 garbage trucks.
17 MR. RANDOLPH: Just answer the questions.
18 THE WITNESS: Yes.
19 BY MR. RODRIGUEZ:
20 Q. Can you describe the third truck for me?
21 A. That's a flat bed they haul bulky
22 material with. It has a flat bed in the back.
23 Q. How big was the flat bed?
24 A. I would say 15, 20 feet long.

1143

1 Q. Okay. Did it have sides?
2 A. Yes.
3 Q. How high were the sides, could you tell?
4 A. 12 to 24 inches, I believe.
5 Q. 12 to 24 inches?
6 A. Yes.
7 Q. What color was the trailer?
8 A. The truck was white cab.
9 Q. The cab was white?

10 A. Yes.
11 Q. And the trailer?
12 MR. RANDOLPH: He didn't testify it was a
13 trailer.
14 Are you talking about the flat bed
15 portion of it?
16 MR. RODRIGUEZ: The flat bed part, the part
17 that isn't the cab.
18 BY THE WITNESS:
19 A. I don't recall.
20 BY MR. RODRIGUEZ:
21 Q. Were there any markings on the truck?
22 A. Yes.
23 Q. Where were the markings located?
24 A. "Abbott" on each door, "Abbott."

1144

1 Q. That's all it said, "Abbott"?
2 A. Yes, Abbott.
3 Q. It was on each door of the cab?
4 A. Yes.
5 Q. Did you ever talk to any of the drivers
6 driving this flat bed truck?
7 A. No.
8 Q. Did you ever talk to any of the drivers
9 at any time from Abbott?
10 A. Yes.
11 Q. Okay. Would that have been during your
12 survey?
13 A. Yes.
14 Q. Is that the only time you ever spoke to
15 a driver?
16 A. Yes.
17 Q. I think you had testified that he was of
18 Mexican nationality.
19 A. Yes.
20 Q. Okay. Do you recall what you talked
21 about with this fellow?
22 MR. RANDOLPH: I think we have covered this.
23 This was not a subject of my redirect. I think you
24 went into some detail during his last examination

1145

1 about the conversations he had with the driver
2 during the survey.
3 MR. RODRIGUEZ: No, I didn't ask him.
4 MR. RANDOLPH: Well, it's certainly not part
5 of the redirect. It certainly wasn't triggered by
6 anything I have done.
7 Go ahead and answer, but we are not
8 going to go back over the time he did the survey.
9 Go ahead. You can answer the question.
10 BY THE WITNESS:
11 A. We didn't talk very much.
12 BY MR. RODRIGUEZ:

13 Q. Do you remember anything you talked
14 about with him?
15 A. At the time I talked with him was when
16 we did the survey down in -- I did all the -- I did
17 the survey, and he did the pulling out the
18 containers and emptying containers and so forth.
19 He spoke very little English, therefore we didn't
20 speak much.
21 Q. Do you remember anything about what you
22 talked about?
23 A. Maybe yes or no and that type of thing.
24 Q. Well, what do you recall?

1146

1 MR. RANDOLPH: I think he just told you, yes
2 or no.
3 THE WITNESS: Yes.
4 BY MR. RODRIGUEZ:
5 Q. You don't remember any specifics of
6 those conversations?
7 A. No.
8 Q. None of the specifics of those
9 conversations?
10 A. No.
11 Q. I think this morning you testified that
12 you saw the Abbott trucks unload at the landfill.
13 A. Yes.
14 MR. RANDOLPH: Are we switching to the garbage
15 trucks?
16 MR. RODRIGUEZ: Pardon me.
17 MR. RANDOLPH: Switching to the garbage
18 trucks?
19 MR. RODRIGUEZ: I'm talking about the trucks.
20 It was his testimony this morning --
21 BY MR. RODRIGUEZ:
22 Q. You saw the trucks unload at the
23 landfill.
24 A. The garbage trucks, yes.

1147

1 Q. The packers?
2 A. Yes.
3 Q. Okay. Did you see this during the
4 survey or at other times?
5 A. Both.
6 Q. So you saw one of the Abbott packers
7 being unloaded at a time when you weren't there.
8 It wasn't while you were riding there during the
9 survey, is that correct?
10 A. Yes.
11 Q. And these times when you saw it
12 unloading and it wasn't part of the survey, where
13 exactly were you?
14 A. Sitting waiting to dump my load at the
15 landfill.

16 Q. Was there a line?
17 A. Sometimes there was two or three trucks
18 in line so I was waiting for my turn.
19 Q. So you would be in the truck.
20 A. I would be either in the truck or
21 standing next to my truck.
22 Q. Okay. During the times that you went
23 there during this week that you did the survey,
24 where would you be when the truck was unloading?

1148

1 A. Either sitting in the cab or standing
2 next to the truck.
3 Q. Okay. Let's talk for a minute about the
4 material that you said was a wet, brownish material
5 that was in the truck.
6 Is this the same material you described
7 two and a half weeks ago that looked like molasses?
8 A. Yes.
9 Q. Okay. Can you describe that a little
10 bit more for me? Was this a liquid, a solid, a
11 semi-solid?
12 A. It was kind of a brownish, semi-solid
13 type of smelly stuff.
14 Q. So it looked kind of like a sludge or
15 something.
16 Are you familiar with a sludge?
17 A. Yes.
18 Q. At what point was it that you -- well,
19 what did it smell like?
20 A. Very unpleasant, strong, really
21 unpleasant smell.
22 Q. Okay. You can't characterize it or
23 compare it to anything?
24 A. No.

1149

1 Q. Okay. At what time was it that you got
2 a smell of this stuff? Was it when it was
3 unloading at the landfill?
4 A. At the landfill, yes, mostly when you
5 unload it.
6 Q. That's when you had an opportunity to
7 smell it?
8 A. Yes.
9 Q. Okay. Was that during the times you
10 were there during the survey or was that times when
11 you were there not during the survey?
12 A. Both.
13 Q. So you had an opportunity to smell it
14 when you were there waiting in line sitting in your
15 truck.
16 A. Yes.
17 Q. Okay. When you were sitting waiting in
18 your truck, how far were you from the landfill

19 itself, from the working face of the landfill where
20 the people dumped their truck?
21 A. Well, if you want me to point out --
22 Q. Well, if you can just tell me how far
23 you would be from where people would empty the
24 truck.

1150

1 A. I would be next to the truck.
2 Q. In your own truck when you were waiting
3 in line?
4 A. That would be about 20 to 30 feet.
5 Q. 20 or 30 feet?
6 A. Away from that truck.
7 MR. RANDOLPH: Away from the Abbott truck. Is
8 that what you're saying, so the record is clear?
9 THE WITNESS: It could be, or it could even be
10 closer, yes.
11 BY MR. RODRIGUEZ:
12 Q. Okay. Now, during this time, you would
13 be outside of the truck, is that correct?
14 A. Most of the time, yes.
15 Q. Because I thought earlier you said you
16 were inside your truck.
17 MR. RANDOLPH: Earlier he said inside or
18 outside.
19 THE WITNESS: Yes.
20 BY MR. RODRIGUEZ:
21 Q. Okay. You also said this morning that
22 your understanding was that this stuff was called
23 filter cake.
24 A. Yes.

1151

1 Q. What is filter cake?
2 A. I can't answer that question. I don't
3 know.
4 Q. How do you know this material was filter
5 cake?
6 A. That's what I was told.
7 Q. By whom?
8 A. It could have been at the landfill.
9 Q. By who at the landfill?
10 A. Cat driver.
11 Q. So you don't know for sure what this
12 was.
13 A. There was a landfill driver usually
14 there, the Cat driver. His name was Elmer. He's
15 the one that informed me on what that was.
16 Q. What was in Abbott's truck?
17 A. Filter cake --
18 Q. You talked to --
19 A. -- or molasses, whatever you want to
20 call it.
21 Q. So you and Elmer had discussions about

22 the contents of Abbott's truck.
23 A. I asked Elmer the first time it ever
24 came to that smell what kind of smell that was, and

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1 Elmer told me that was filter cake.
2 Q. Okay. The first time you ever saw an
3 Abbott truck there dumping this material you asked
4 Elmer about this, is that correct?
5 MR. RANDOLPH: He said the first time he
6 smelled it.
7 BY MR. RODRIGUEZ:
8 Q. You asked Elmer about this.
9 A. Yes.
10 Q. Elmer was the one that told you what it
11 was.
12 A. Yes.
13 Q. Did you ever discuss with Elmer the
14 nature of anybody else's garbage over the years
15 that you drove to Yeoman Creek Landfill?
16 A. Yes.
17 Q. Any of the parties that we have talked
18 about during the last couple of days? Do you know
19 anything that Elmer knew about their waste?
20 For example, do you know what Outboard
21 Marine may have disposed of at the landfill? Would
22 Elmer have told you what they may have disposed of
23 at the landfill I guess is a better way.
24 MR. RANDOLPH: I'm not sure. There's a number

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1 of questions.
2 I think he's asking you did Elmer tell
3 you what Outboard Marine was disposing of at the
4 landfill.
5 THE WITNESS: No.
6 BY MR. RODRIGUEZ:
7 Q. You testified a couple weeks ago that
8 Elmer has passed away, is that correct?
9 A. Yes.
10 Q. Okay. It's your specific recollection,
11 then, that the reason why you know that this is
12 called filter cake was because Elmer told you.
13 A. Yes.
14 Q. Okay. Do you have any knowledge or any
15 reason to think that Abbott was ever a National
16 Disposal customer?
17 A. I don't know.
18 Q. Do you have any reason to think that?
19 A. No.
20 Q. As far as you understood, Abbott always
21 drove for itself to the landfill all of its own
22 waste to the landfill?
23 A. Yes.
24 MR. RODRIGUEZ: I don't have anything further.

1 MR. RANDOLPH: Let's go off the record.
2 (WHEREUPON, discussion was had
3 off the record.)
4 MR. MUSCHLER: Mr. Kirkegaard, I'll even stay
5 here.
6 You remember me. My name is David
7 Muschler. I represent Coral International.
8 FURTHER EXAMINATION
9 BY MR. MUSCHLER:
10 Q. You testified that there was an
11 individual by the name of Delbert Hofer. His name
12 arose this morning, I believe.
13 A. Yes.
14 Q. Do you know if he is still alive, sir?
15 A. Yes, I believe so. Yes.
16 Q. Do you know where he lives?
17 A. No.
18 Q. Do you know where he works?
19 A. No.
20 Q. Do you know if he is in this area?
21 A. I don't believe he is. He was on
22 vacation one time in this area, and he looked me up
23 and said hi, and he did not say where he --
24 Q. How long ago was that?

1 A. I would say about two years ago.
2 Q. Do you have any idea where he currently
3 resides?
4 A. No.
5 Q. Okay. Do you have any knowledge, sir --
6 and this question has been asked in different ways,
7 but do you have any knowledge that OMC by its own
8 personnel or trucks delivered anything to the
9 Yeoman Creek Landfill?
10 A. I don't have any knowledge, no.
11 Q. Did Elmer ever tell you that OMC was
12 making deliveries by its own personnel?
13 MR. BLEIWEISS: Object. Asked and answered.
14 BY THE WITNESS:
15 A. No.
16 BY MR. MUSCHLER:
17 Q. Would you, sir, identify for us who your
18 counsel is in this litigation?
19 MR. RANDOLPH: I'll identify --
20 MR. MUSCHLER: No. I want Mr. Kirkegaard.
21 MR. RANDOLPH: Do you understand the
22 question?
23 Who is counsel for you in this
24 litigation?

1 THE WITNESS: Yes.
2 MR. RANDOLPH: Myself.

3 BY THE WITNESS:
4 A. And Bill.
5 BY MR. MUSCHLER:
6 Q. Identify them by name, please.
7 A. Jerry.
8 Q. Is that Mr. Randolph?
9 A. Randolph and William Beck and Theresa.
10 MR. RANDOLPH: Stewart.
11 THE WITNESS: Stewart.
12 BY MR. MUSCHLER:
13 Q. And that's who you know as your counsel
14 in this matter.
15 A. Yes.
16 Q. Now, when Mr. Randolph has instructed
17 you not to answer a question that could deal with
18 conversations between yourself and counsel, are
19 those the individuals that you understood Mr.
20 Randolph to refer to, himself; Mr. Beck and Ms.
21 Stewart?
22 A. Yes.
23 Q. Did you have any conversations with Mr.
24 Bleiweiss about any of these matters?

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1 MR. RANDOLPH: I'm going to object and
2 instruct him not to answer on the basis that there
3 is also in effect a joint defense privilege, joint
4 counsel privilege dealing with conversations with
5 other parties and other plaintiffs in this
6 litigation and their counsel, and so I'm going to
7 instruct him not to answer.
8 MR. MUSCHLER: You're saying that if he has
9 conversation with any of the other plaintiffs'
10 attorneys that that's privileged information?
11 MR. RANDOLPH: Correct.
12 MR. MUSCHLER: Okay.
13 BY MR. MUSCHLER:
14 Q. You stated, sir, that Elmer told you
15 about the filter cake from Abbott Labs, is that
16 correct, or from Abbott?
17 A. Yes.
18 Q. Did anybody else ever mention filter
19 cake to you other than Elmer?
20 A. No.
21 Q. When is the last time you had a
22 conversation with Elmer about filter cake?
23 A. That was in the late sixties.
24 Q. I think you testified earlier today

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1 about a customer by the name of Chem-Rite --
2 A. Yes.
3 Q. -- am I correct?
4 And Chem-Rite was on LeBaron Street, is
5 that correct?

6 A. Yes.
7 Q. Can you tell me whether you picked up
8 Chem-Rite before or after you picked up materials
9 from Coral?
10 A. It varies. Once in a while we would
11 pick up Coral first, and other times we would pick
12 up Chem-Rite first.
13 Q. Was there any reason why you would do it
14 in a different order?
15 A. It all depend on what -- see, Chem-Rite
16 and Coral is on the same street, very close by. It
17 all depends on what side you came from. If we came
18 from the north end, we would take Coral first, and
19 if we came from the south end off Washington
20 Street, we will take Chem-Rite first.
21 Q. It was my understanding that when we
22 were dealing with, I believe it's your Deposition
23 Exhibit No. 1 --
24 MR. RANDOLPH: Yes, sir.

1 IN THE UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION
4 WAUKEGAN COMMUNITY SCHOOL)
5 DISTRICT NO. 60, et al.,)
6 Plaintiffs,) VOLUME II
7 v.) Case No. 92 C 7592
8 ABBOTT LABORATORIES, et al.) Judge Leinenweber
9 Defendants.) Magistrate Judge Rosemond
10
11
12 October 20, 1993
13 9:30 a.m.
14
15 The deposition of PEDER KIRKEGAARD
16 resumed pursuant to adjournment at The Marc Plaza
17 Hotel, 509 West Wisconsin Avenue, Milwaukee,
18 Wisconsin.
19
20
21
22

1 many of those were there per pickup?

2 A. Well, there was usually always close to
3 a truckload, which could mean 15 to 20 drums.

4 MR. VARICK: I have nothing else.

5 MR. RODRIGUEZ: Mr. Kirkegaard, my name is
6 Gabe Rodriguez, and I represent Abbott.

7 THE WITNESS: Yes.

8 EXAMINATION

9 BY MR. RODRIGUEZ:

10 Q. I wanted to start out by asking you
11 whether Abbott was ever a Waukegan Disposal
12 customer.

13 A. No.

14 Q. I think you told Mr. Varick yesterday
15 that you saw Abbott trucks at the landfill.

16 A. Yes, I did.

17 Q. Can you tell me when you first saw
18 Abbott trucks at the landfill?

19 A. I cannot remember the specific day I saw
20 the first Abbott truck, but I saw them all the
21 time, basically all the time I was in business in
22 Waukegan.

23 Q. So you would have seen Abbott trucks at
24 the landfill from as early as you were driving to

1 the landfill.

2 A. As early as --

3 Q. From the very beginning that you were in
4 business.

5 A. I don't recall if it was exactly in that
6 same year, but I recall them from way back.

7 Q. Do you remember what the trucks looked
8 like?

9 A. Well, I remember in the beginning they
10 would come in with quite a bit on flat bed trucks.
11 They were red, and I believe it said "Newsom" on
12 the side of the truck, but we knew it was from
13 Abbott Laboratories.

14 Q. The truck itself said "Newsom."

15 A. Yes.

16 Q. How did you know it was coming from
17 Abbott?

18 A. We were told that's where it was from.

19 Q. Who told you that, do you remember?

20 A. The people that were dumping it we knew
21 were Abbott employees.

22 Q. Did you speak to those employees?

23 A. Off and on.

24 Q. Did you see these flat bed trucks that

1 said "Newsom" -- was that in the early days --

2 A. That was in the early days.

3 Q. -- or was that later that --

4 A. Was early, and then --
5 MS. CLOKEY: Let me ask you a question.
6 (WHEREUPON, discussion was had
7 off the record between the witness
8 and Ms. Clokey outside the
9 hearing of other counsel and the
10 court reporter.)
11 BY MR. RODRIGUEZ:
12 Q. And the drivers of what I'll call the
13 Newsom trucks, the drivers of the Newsom trucks
14 told you they were Abbott employees.
15 Is this one flat bed truck?
16 A. Yes.
17 Q. Was it the same driver each time that
18 you saw at the landfill?
19 A. There was usually more than one person
20 with the truck, a couple of them.
21 Q. Were they the same people all the time?
22 A. Pretty much.
23 Q. How often did you see the Newsom truck
24 at the landfill back in the early days?

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1 A. I couldn't really tell you for sure.
2 Quite often.
3 Q. Well, how often were you at the landfill
4 during those early days?
5 A. On a daily basis.
6 Q. More than once a day.
7 A. Could be on some days, but mostly once.
8 Q. Once a day.
9 A. Yes.
10 Q. Okay. The Newsom truck, would you see
11 it there each time that you were there?
12 A. Not each time, but sometimes we would
13 also meet the truck going towards the landfill on
14 Lewis Avenue.
15 Q. So would you say that you saw the Newsom
16 truck there three times a week or you may have seen
17 it once a week?
18 A. I wouldn't speculate on the amount of
19 time.
20 Q. Did you see the Newsom truck later on in
21 the sixties still going to the landfill?
22 A. No. Then I would see they got their own
23 packer trucks, big packer trucks, and that's what I
24 would see.

435

1 Q. When did you first see packer trucks?
2 A. I can't remember the year, but that goes
3 way back as well. They had several -- they got new
4 ones as well.
5 Q. Can you describe the packers?
6 A. Yes. It was Leach packer painted white.

7 Q. You could tell they were Abbott trucks
8 by looking at them.
9 A. Yes.
10 Q. Did they have "Abbott" on them or some
11 other insignia?
12 A. No, they did not have "Abbott" on them,
13 but we knew they were from Abbott.
14 Q. How did you know that?
15 A. We were told that.
16 Q. Who told you that?
17 A. Well, we knew the driver that drove that
18 packer truck. His name was Jake.
19 Q. Gig?
20 A. Jake, J-a-k-e.
21 Q. Was it the same driver all the time?
22 A. Except if he was off or on vacation or
23 something.
24 Q. Do you remember when the packers first

436

1 appeared? Was it in the mid-sixties or later than
2 that or earlier than that?
3 A. It was earlier than that.
4 Q. When you first saw the packer, at that
5 point was the Newsom truck not being used any more?
6 A. I can't remember that. I cannot
7 remember that.
8 Q. Do you ever remember seeing the Newsom
9 truck and the packer truck at the landfill at the
10 same time?
11 A. I couldn't say that, no.
12 Q. Do you know how long Jake drove that
13 truck?
14 MR. RANDOLPH: Are we talking now the packer
15 truck?
16 MR. RODRIGUEZ: Yes.
17 BY THE WITNESS:
18 A. The packer truck would come in. We saw
19 that on a daily basis.
20 BY MR. RODRIGUEZ:
21 Q. Was Jake driving it?
22 A. Yes.
23 Q. Did he drive it the whole time that you
24 saw these trucks at the landfill?

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1 A. No. I believe he at a later date quit
2 Abbott Laboratories and went to work for Dan
3 Lodesky.
4 Q. Now, you say you saw the Abbott trucks
5 on a daily basis at the landfill.
6 A. Pretty much, yes.
7 Q. Was that throughout the sixties?
8 A. Yes.
9 Q. You had on occasion spoke to Jake.

10 A. Yes, I did.
11 Q. Do you recall the substance of any of
12 your conversations with Jake?
13 A. I don't.
14 Q. Did you ever have occasion to see an
15 Abbott truck unload at the landfill?
16 A. Yes.
17 Q. How often did you see that?
18 A. Quite often we would dump a load side by
19 side. I was always hoping the wind were away from
20 us.
21 Q. So you actually saw the waste that was
22 coming out of --
23 A. Yes, I did.
24 Q. -- the truck.

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1 Can you describe what was in the truck?
2 A. First of all, you didn't really like to
3 look at it, but it was gray material, almost light
4 brown, very bad looking.
5 Q. Do you know what the material was?
6 A. No. It looked like very damp and heavy
7 material.
8 Q. Was there anything else that came out of
9 the truck?
10 A. No, not to my knowledge.
11 Q. Paper?
12 A. There was probably mixed some paper with
13 it, but I didn't really examine.
14 Q. Corrugated?
15 A. I'm sure there could have been.
16 Q. I take it because you wanted to be
17 downwind that you could actually smell this
18 material.
19 A. Yes.
20 Q. It had an odor.
21 A. Yes.
22 Q. Can you describe the odor?
23 A. Boy, that's very hard to describe. It's
24 a very bad odor.

439

1 Q. Now, you say you were there when the
2 truck was unloading on several occasions.
3 A. Yes.
4 Q. Was this material in the truck every
5 time?
6 A. Uh-huh.
7 MS. CLOKEY: You have to answer yes or no.
8 THE WITNESS: Yes.
9 BY MR. RODRIGUEZ:
10 Q. On these occasions that you were near
11 the Abbott truck while it was unloading, was this
12 late in the sixties, early in the sixties or --

13 A. It was at the Yeoman Creek Landfill. It
14 could have been in the middle sixties.
15 Q. Did you see any other trucks, Abbott
16 trucks, at the Yeoman Creek Landfill?
17 A. I don't believe so.
18 Q. Did you ever see the Newsom truck
19 unload?
20 A. No.
21 Q. Did you ever see what was on the Newsom
22 truck when it was driving to the landfill?
23 A. No.
24 Q. Do you know whether anybody else ever

440

1 hauled for Abbott?
2 A. Yes. Waukegan Disposal had on a few
3 occasions had a truck at Abbott Laboratories to
4 pick up.
5 Q. Who did you say that was?
6 A. Waukegan Disposal Service.
7 Q. Your company did.
8 A. Yes.
9 Q. I thought you told me right at the
10 beginning today that it was not a Waukegan Disposal
11 customer.
12 A. It was not a customer, but just as a
13 helper because their truck were broke down so we
14 helped them out. It was not a customer as such.
15 Q. Okay. So your company had a truck there
16 that they used as a spare.
17 Is that what you're saying?
18 A. They did not use. We sent the driver in
19 there.
20 Q. How often did that happen?
21 A. I only remember one occasion.
22 Q. Were you the driver that drove on that
23 occasion?
24 A. No. Ole, my brother, were in there.

441

1 Q. So on this one occasion that Waukegan
2 Disposal hauled for Abbott Ole was the driver.
3 A. Yes.
4 Q. Do you recall when that was
5 approximately?
6 A. I don't recall the year.
7 Q. Can you give me a time frame? Was it
8 early or late in the time period that the company
9 was --
10 A. It was late in the sixties.
11 Q. Would it have been during the time
12 period that Waukegan was driving to the Yeoman
13 Creek Landfill?
14 A. Oh, yes.
15 Q. That one time that Waukegan Disposal

16 picked that up, were you the one that took the
17 call --
18 A. No.
19 Q. -- from Abbott?
20 A. I just barely remember that we were in
21 there. I don't remember how it really came about.
22 Q. Do you remember whether it was one
23 truckload or more than one truckload?
24 A. I believe it was more than one

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1 truckload.
2 Q. What makes you believe that?
3 A. Because that's how my recollection tells
4 me.
5 Q. Do you know if Ole went there with a
6 packer?
7 A. Yes.
8 Q. Did Ole tell you anything at all about
9 what he did or saw at Abbott?
10 A. I'm sure he did when he came back. I
11 cannot remember.
12 Q. You don't remember anything about the
13 substance of that conversation.
14 A. No, no.
15 Q. Did you ever solicit Abbott Laboratories
16 as a regular account?
17 A. Not to my knowledge.
18 Q. Beginning after that one instance that
19 Ole made that pickup, did they ever contact you
20 again about picking up their garbage?
21 A. No, I don't recall that.
22 Q. Did they ever contact you before then
23 about picking up their garbage?
24 A. Not that I can remember.

443

1 Q. So the one time that Abbott Laboratories
2 ever contacted Waukegan Disposal about garbage
3 pickup was on one day.
4 A. It was maybe two days.
5 Q. Do you ever recall preparing a proposal
6 for the Abbott Lab account?
7 A. I don't recall that.
8 Q. Do you remember the names of any of the
9 other Abbott Laboratory drivers that you saw at the
10 landfill other than Jake?
11 A. No, I don't. I believe they were
12 Mexicans.
13 Q. Did you ever speak to any of them?
14 A. Not really.
15 Q. These drivers of Mexican nationality,
16 they would have been during the latter period,
17 during the later sixties.
18 A. No. I think that was true even in the

19 beginning.
20 Q. So what did Jake drive?
21 A. Jake drove the packer truck --
22 Q. What did the Mexicans --
23 A. -- in the beginning.
24 Q. In the beginning.

444

1 A. I believe after Jake quit the Mexicans
2 then drove it.
3 Q. You never spoke to the Mexican drivers.
4 A. No.
5 Q. Do you know of any other haulers that
6 drove for Abbott?
7 A. Yes. T-K City Disposal hauled Abbott
8 Park for Abbott Laboratories.
9 Q. When did that start?
10 A. Sometime in the '69 --
11 Q. This was while you were associated with
12 T-K or after you sold the business.
13 A. Yes, while I was associated with T-K.
14 Q. How often did Abbott have its waste
15 picked up by T-K?
16 A. I believe on a daily basis.
17 Q. You were the person that sent out the
18 drivers in the morning for T-K, weren't you?
19 A. Yes.
20 Q. Did you yourself ever drive to Abbott
21 Park?
22 A. Yes, I did.
23 Q. What kind of a truck did you drive to go
24 to Abbott?

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1 A. A packer truck.
2 Q. Was Abbott a daily customer of T-K's?
3 A. Yes.
4 Q. Where is Abbott Park?
5 A. That's located out on Waukegan Road
6 going towards Lake Bluff.
7 Q. How often did you go to Abbott Park?
8 A. I don't recall how many times I was
9 there personally.
10 Q. More than once?
11 A. Yes.
12 Q. More than ten times?
13 A. I would say more than ten times.
14 Q. Was it more than 20 times?
15 A. No, I don't believe that.
16 Q. Can you describe what Abbott Park looks
17 like?
18 A. Yes. It's probably different now than
19 then, but we would come in from Waukegan Road.
20 There would be two pillars where it would say
21 "Abbott Park," and there would be a big sign

22 there. There would be a guard there we had to
23 enter through, and we would drive over to the
24 building where the pickup was.

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1 I don't remember in specific how that
2 location looked like, but I do recall that the
3 truck had to be checked for radioactive material
4 every time before it left Abbott Park by some
5 equipment.
6 Q. How many buildings were at Abbott Park,
7 do you remember?
8 A. I don't recall.
9 Q. Was it more than two buildings?
10 A. I remember there was one place where
11 there was a lot of monkeys in there.
12 MR. VARICK: Like this one.
13 THE WITNESS: You said it.
14 BY MR. RODRIGUEZ:
15 Q. There were more than two buildings
16 then.
17 A. Yes.
18 Q. Were there more than five buildings?
19 A. Excuse me. That we picked up from or --
20 Q. No. In Abbott Park.
21 A. Oh, a lot more than five buildings.
22 Q. More than five buildings.
23 A. Yes.
24 Q. More than ten buildings.

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1 A. Well, now, I didn't count, but it's a
2 lot of buildings out there.
3 Q. Okay. This is your recollection of what
4 it looked like in 1969.
5 A. Yes.
6 Q. You do recall there were at least ten
7 buildings. Is that what you said?
8 MR. RODRIGUEZ: Can you read back his answer
9 to the question about whether there was more than
10 ten buildings?
11 MR. RANDOLPH: Are you withdrawing the last
12 question then?
13 MR. RODRIGUEZ: I'll withdraw that one.
14 (WHEREUPON, the record was read
15 by the reporter as requested.)
16 BY MR. RODRIGUEZ:
17 Q. Do you have a recollection of it being
18 as many as ten buildings do you think?
19 A. I'd rather not say. The only thing I
20 knew it was called Abbott Park.
21 Q. How many locations did you pick up at
22 Abbott Park?
23 A. Two, I believe.
24 Q. Where were those?

1 A. That I couldn't tell you either. I
2 don't even think I could find them again.
3 Q. But you do recall there were two
4 locations within Abbott Park.
5 A. Yes.
6 Q. What kind of containers did you pick up
7 there?
8 A. I don't recall that either.
9 Q. Was this a Tewes customer?
10 A. This was an account that Henry Tewes
11 got, yes.
12 Q. Can you recall how many containers there
13 were at the Abbott locations?
14 A. I don't recall that.
15 Q. Can you recall the type of containers?
16 A. No.
17 Q. Can you recall what was in the
18 containers?
19 A. Not really.
20 Q. Did you ever go inside any of the
21 buildings while you were at Abbott Park?
22 A. We picked up within the building itself
23 by a loading dock.
24 Q. So you had to go inside the building.

1 A. Yes.
2 Q. How did you gain access to the building?
3 A. I don't recall.
4 Q. Was it a loading dock?
5 A. It was a loading dock.
6 Q. Did you have to go any farther than the
7 loading dock when you got to the building?
8 A. No.
9 Q. Did you ever go inside any farther than
10 the loading dock?
11 A. Only at that other place where the
12 monkeys were. We did go a little further in there.
13 Q. Was that one time?
14 A. I don't recall.
15 Q. Tell me about that. Why is it that you
16 went into the building farther than the loading
17 dock?
18 A. It's so long ago I just can't remember.
19 I just remember that, I suppose, because we sort of
20 looked at those monkeys and thought that was
21 something we didn't normally see. So this is
22 basically sort of very weak in my memory, but --
23 Q. Were you alone or did you have a helper
24 with you?

1 A. There was a helper with, yes.
2 Q. Who was your helper?
3 A. I don't recall that either.
4 Q. Was somebody from Abbott with you when
5 you went inside the buildings?
6 A. I'm sure someone from Abbott took us in
7 there.
8 Q. But you don't remember specifically.
9 A. No.
10 Q. Was this part of your job? Did they
11 take you in there to pick up garbage?
12 A. Oh, yes.
13 Q. What kind of container did you pick up
14 inside the building?
15 A. I don't recall that either.
16 Q. How often did you drive to this account?
17 MR. RANDOLPH: I think we have been through
18 this.
19 BY MR. RODRIGUEZ:
20 Q. Did you personally drive through this
21 account?
22 MR. RANDOLPH: Object as asked and answered.
23 BY MR. RODRIGUEZ:
24 Q. You can answer the question.

1 A. Probably somewhere between 10 and 20
2 times I was there.
3 Q. These times you went inside the building
4 just one time, is that correct?
5 A. Yes.
6 Q. That is, beyond the loading dock.
7 A. Yes, beyond the loading dock where we
8 made the pickup.
9 Q. Did you have to stop at the gate when
10 you got to Abbott Park?
11 A. Yes.
12 Q. At the guardhouse.
13 A. Yes.
14 Q. Did you have to speak to the guard?
15 A. I believe we did, yes, told him who we
16 were.
17 Q. Did you have to sign anything when you
18 went in or left?
19 A. I do not remember that.
20 Q. After you sold your interest in T-K, did
21 Abbott remain a Tewes customer?
22 A. Yes.
23 Q. During this time period when you weren't
24 driving this particular account, who would the

1 other drivers have been who might have driven this
2 account?

3 A. I don't remember the driver's name or
4 even what he looked like.
5 Q. You don't recall the drivers from T-K.
6 A. No.
7 Q. How was Abbott billed? I'm talking now
8 about by T-K for the business that you ran. How
9 were they billed?
10 MS. CLOKEY: Object to the form of the
11 question.
12 MR. BECK: So do I. It misstates the
13 testimony.
14 MS. CLOKEY: Do you understand the question?
15 THE WITNESS: No.
16 MS. CLOKEY: Can you rephrase it?
17 MR. RODRIGUEZ: Yes.
18 BY MR. RODRIGUEZ:
19 Q. During the time period that they were a
20 T-K customer, so for the testimony you just gave
21 that Abbott Park was a T-K account --
22 A. Yes.
23 Q. -- do you know how Abbott was billed for
24 those pickups?

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1 A. No. I had nothing to do with that.
2 That was done from the Tewes Company's office.
3 Q. Done from their office but on behalf of
4 T-K.
5 A. Yes.
6 Q. Well, did you fill out any yardage slips
7 when you left that facility?
8 A. I don't recall that.
9 Q. How many times within the last week have
10 you spoken to Mr. Randolph, Jerry?
11 (WHEREUPON, discussion was had
12 off the record between the witness
13 and Ms. Clokey outside the
14 hearing of other counsel and the
15 court reporter.)
16 BY THE WITNESS:
17 A. Twice.
18 BY MR. RODRIGUEZ:
19 Q. Before that, had you ever spoken to Mr.
20 Randolph?
21 A. A long time ago.
22 Q. When was that?
23 A. I don't recall exactly when, but a
24 couple years ago, I believe.

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1 Q. Were the two of you alone when you last
2 spoke to him?
3 During that conversation you had two
4 years ago were you alone?
5 A. Within the last two days?

6 Q. No, no. The time you spoke to him two
7 years ago.
8 A. No.
9 Q. Who else was with you?
10 A. There would have been an attorney with
11 me, Don Moran.
12 Q. Was anybody else with you during that
13 conversation?
14 A. I don't recall. There must have been
15 someone else. I believe my wife were there, too.
16 Q. Was anybody else present?
17 A. Yes. There was some other attorneys
18 there, too.
19 Q. Do you remember who they were?
20 A. I don't remember.
21 Q. Do you recognize anybody here as having
22 been there?
23 A. Not really.
24 Q. Was Mr. Beck there?

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1 Do you know who Mr. Beck is?
2 MS. CLOKEY: The attorney for BFI.
3 BY THE WITNESS:
4 A. No. No, I don't believe he was there.
5 No.
6 BY MR. RODRIGUEZ:
7 Q. Was Mr. Bleiweiss -- Shell, can you
8 identify yourself?
9 Was he there?
10 A. You know, I'm not very good at
11 remembering faces, but there were several attorneys
12 there.
13 Q. Do you recall what you talked about with
14 Mr. Randolph a couple years ago?
15 A. Really, I don't. It is very weak in my
16 memory. I don't recall.
17 Q. I take it though it was about the Yeoman
18 Creek Landfill. Do you remember that?
19 A. It was regarding that, yes.
20 Q. Do you recall whether you talked about
21 specific companies?
22 A. I don't believe we did, no.
23 Q. Do you recall whether you spoke
24 specifically about Abbott?

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1 A. No, I don't recall anything about
2 Abbott.
3 Q. Going back to the conversations you have
4 had during the last couple of days with Mr.
5 Randolph --
6 A. Yes.
7 Q. -- was anybody else present during these
8 conversations?

9 A. Yes.
10 Q. Who was that?
11 A. My attorney.
12 Q. Jane?
13 A. Yes.
14 MS. CLOKEY: And your wife.
15 BY THE WITNESS:
16 A. And my wife.
17 BY MR. RODRIGUEZ:
18 Q. And Ruth?
19 A. Yes.
20 Q. What did Mr. Randolph talk to you about
21 during these last couple of days?
22 A. I think it was regarding some
23 documents. He showed us some documents.
24 Q. Did he do anything else other than show

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1 you documents?
2 A. No.
3 Q. Do you have any of the documents that he
4 showed you?
5 MS. CLOKEY: Did he give us any documents?
6 BY THE WITNESS:
7 A. No.
8 MS. CLOKEY: No.
9 BY MR. RODRIGUEZ:
10 Q. Did you talk about specific companies?
11 A. No.
12 Q. Did you talk about Abbott at all during
13 this conversation?
14 A. No, we did not.
15 Q. Did he speak to you about anything else
16 other than the documents that he showed you?
17 A. Not that I remember, no.
18 MR. RODRIGUEZ: Can I take one minute?
19 (WHEREUPON, discussion was had
20 off the record.)
21 BY MR. RODRIGUEZ:
22 Q. Did Mr. Randolph talk to you at all
23 about Ole's testimony?
24 A. No.

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1 Q. Have you reviewed the transcript of
2 Ole's, your brother's, deposition?
3 A. No, I have not.
4 Q. I want to switch gears just for one
5 second and ask you whether Goodyear was a Waukegan
6 Disposal customer.
7 A. No.
8 Q. Were they a National Disposal customer?
9 A. Yes.
10 Q. How do you know that?
11 A. I don't really know how I got to know

12 that, but I knew it was a National Disposal
13 account.

14 Q. Do you know where their wastes were
15 disposed of?

16 A. It was disposed of at the Yeoman Creek
17 Landfill.

18 Q. How do you know that?

19 A. Because it was hauled in there by the
20 National Disposal trucks.

21 Q. Do you know what types of wastes they
22 sent to the landfill?

23 A. No, I don't.

24 Q. Do you know when they first became a

1 pickups in the winter than there was in the
2 summer. Maybe some of them didn't even get picked
3 up in the winter.

4 Q. Did you have the Waukegan Park District
5 account from the time that you purchased Fargaard's
6 accounts until you merged with BFI?

7 A. No, I don't believe we did. I believe
8 we lost it to T-K.

9 Q. So that would be --

10 A. In '69.

11 Q. -- '69 or '70.

12 A. Yes.

13 Q. You testified about all of these other
14 waste haulers. Were there any other truck -- I
15 would call them trucking companies. Now, you
16 mentioned Newsom for Abbott.

17 Were you familiar with other trucking
18 companies in the Waukegan area at that time that
19 were not necessarily refuse haulers who you would
20 see from time to time at the landfill site?

21 A. Once in a great while, when it was very
22 muddy at the landfill, we would see Dan Lodesky

1 IN THE UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION
4 WAUKEGAN COMMUNITY SCHOOL)
5 DISTRICT NO. 60, et al.,)
6 Plaintiffs,) VOLUME II
7 v.) Case No. 92 C 7592
8 ABBOTT LABORATORIES, et al.) Judge Leinenweber
9 Defendants.) Magistrate Judge Rosemond
10
11
12 September 29, 1993
13 9:40 a.m.
14
15 The deposition of MARVIN LEROY POWLES,
16 SR. resumed pursuant to adjournment at Suite 7200,
17 233 South Wacker Drive, Chicago, Illinois.
18
19
20

1 3, which appears to be the list for National
2 Disposal.

3 I'm not sure there's a question pending
4 now at this point.

5 MR. ZAPINSKI: I know.

6 MR. RANDOLPH: Okay.

7 MR. ZAPINSKI: Let's take a short break right
8 now. I'll work through this.

9 MR. RANDOLPH: Off the record.

10 (WHEREUPON, a recess was had.)

11 BY MR. ZAPINSKI:

12 Q. Going back to Exhibit No. 30 -- I
13 apologize for the confusion before the break -- if
14 you would turn to -- it's the bottom of the page
15 marked Page No. 7 and the top of Page 8, there is a
16 list that begins with "Abbott Laboratories" and
17 ends with "Zayre." I'd like you to review that
18 list and tell me if reviewing that list refreshes
19 your recollection as to any other pickups of waste
20 that you made while employed at National Disposal.

21 MR. RANDOLPH: That went to the Yeoman Creek
22 site?

23 MR. ZAPINSKI: Okay. That went to Yeoman
24 Creek.

1 MR. RANDOLPH: So just read to yourself
2 beginning right there, Page 7 on into Page 8
3 (indicating), just down to right here
4 (indicating).

5 The question is after having -- have you
6 read that?

7 THE WITNESS: Yes.

8 MR. RANDOLPH: After having read it, do you
9 have a memory of picking up any additional
10 customers' waste during that period of time and
11 taking it to Yeoman Creek, other than what you have
12 already testified to?

13 THE WITNESS: No.

14 Maybe to clarify, the monkey was not in
15 the crate. It was on top of my garbage truck. It
16 was in the crate, and when I threw it in the
17 garbage truck, it busted the crate and it came up
18 on top of it and they came and caught it.

19 MR. ZAPINSKI: I'm going to defer to Abbott's
20 attorney to ask about the monkey.

21 BY MR. ZAPINSKI:

22 Q. With regard to American Hospital Supply,
23 do you recall where American Hospital Supply Corp.
24 is located?

1 MR. RANDOLPH: Is now or was during the
2 sixties?

3 MR. ZAPINSKI: Was during the sixties.
4 BY THE WITNESS:
5 A. No. I really don't know where it was at
6 during the sixties.
7 BY MR. ZAPINSKI:
8 Q. Do you recall picking up any waste at
9 American Hospital Supply Corporation during your
10 period of employment with National Disposal?
11 A. No. I never personally ever picked any
12 up.
13 Q. Do you know if anybody at National
14 Disposal picked up waste from American Hospital
15 Supply Corporation?
16 A. If anybody, it would have been Charles
17 Iverson.
18 Q. Do you know if Mr. Iverson ever picked
19 up any waste there?
20 A. No, I do not.
21 Q. You have already testified about Anchor
22 Hocking. My question to you is whether reading
23 this line in Exhibit No. 30 helps you to remember
24 anything further about when you picked up waste at

1 A. Yes.
 2 Q. Was it picked up by mechanical device?
 3 Is that how the container was emptied?
 4 A. Yes.
 5 Q. Either before or while you were emptying
 6 it, did you have occasion to see what was in the
 7 containers?
 8 A. Yes.
 9 Q. Can you tell me what you saw in the
 10 container?
 11 A. Mainly office papers. I can't think of
 12 anything else.
 13 Q. Do you recall ever seeing oil cans in
 14 there?
 15 A. No.
 16 Q. Rags?
 17 A. No.
 18 Q. No, you didn't see them or no, you don't
 19 recall seeing cans or rags?
 20 A. I didn't see them.
 21 Q. Did you get a good enough look at the
 22 contents of the containers at these buildings that,
 23 for example, if there was a can or a rag in there
 24 you would have seen it?

1 A. It dumps it all in the truck at one
 2 time, and I never searched the garbage.
 3 Q. And you never searched the garbage. Is
 4 that what you said?
 5 A. Right. I wouldn't get in there and move
 6 it around.
 7 Q. Is that true at City Hall or city
 8 buildings or was that true generally?
 9 A. That was true generally.
 10 Q. Yesterday I think you testified that
 11 Abbott was a National Disposal customer.
 12 Do you remember that testimony?
 13 A. Yes.
 14 Q. Can you tell me whether you personally
 15 ever picked up garbage at Abbott?
 16 A. Yes.
 17 Q. Can you tell me the time period in which
 18 you were picking up at Abbott?
 19 (WHEREUPON, there was a short
 20 interruption.)
 21 BY THE WITNESS:
 22 A. What was the question again?
 23 BY MR. RODRIGUEZ:
 24 Q. The question was the time period that

1 you picked up garbage at Abbott.
 2 A. No. I really can't come up with dates.
 3 Q. Was Abbott on the commercial route?

4 A. Yes.
5 Q. I think you testified yesterday there
6 was only one commercial route.
7 A. Yes.
8 Q. Do you recall whether Abbott was on that
9 route when you started driving the commercial
10 route?
11 A. Yes.
12 Q. Yes, it was on the route?
13 A. Yes.
14 Q. Was it still on the route when you ended
15 driving, when you stopped driving the commercial
16 route?
17 A. No.
18 Q. Yesterday I think you testified that
19 there were some accounts that were added or deleted
20 from the route.
21 Was Abbott then one of the accounts that
22 was dropped from that commercial route?
23 A. Yes.
24 Q. Do you recall when that was?

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1 A. No, I don't.
2 Q. How would you know that an account had
3 been dropped from the route?
4 A. The office told me.
5 Q. Who in the office would tell you?
6 A. Laddie Sage.
7 Q. Pardon me.
8 A. Laddie Sage.
9 Q. And you are going to have to help me
10 again. Who was Laddie Sage?
11 A. He was the gatekeeper at Yeoman Creek
12 Landfill.
13 Q. Would Laddie give you a route map or
14 would he just tell you each morning you're not to
15 pick up at a particular account any more?
16 A. He would verbally tell me that an
17 account had canceled.
18 Q. Was it earlier in the day that you
19 picked up at Abbott or later in the day?
20 A. Earlier.
21 Q. Was it typically part of the first load
22 that went to the landfill?
23 A. Yes.
24 Q. Was it one of the first stops?

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1 A. I don't remember.
2 Q. Where was the Abbott facility?
3 A. On Waukegan Road south of Buckley Road.
4 Q. Do you know what they did there?
5 A. Not firsthand, no.
6 Q. Well, did somebody ever tell you what

7 they did there?
8 A. Well, it appeared to be mainly office
9 buildings in that complex.
10 Q. Did anybody ever tell you what they did
11 there?
12 A. No.
13 Q. Do you recall what the plant looked
14 like?
15 A. It was a park. It was spread out
16 different buildings.
17 Q. Do you recall how many buildings?
18 A. I believe when I was picking it up there
19 was four buildings.
20 Q. Do you recall the entrance to the
21 facility?
22 A. Yes.
23 Q. Was there a guard at the entrance?
24 A. Yes.

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1 Q. Did you ever have to speak to the guard
2 to get in?
3 A. No.
4 Q. You did not have to speak to the guard.
5 A. No.
6 Q. Did you have to sign anything to get
7 through the gate?
8 A. No.
9 Q. How many containers did they have at
10 Abbott?
11 A. I don't know.
12 Q. Do you remember what kind of containers
13 they had?
14 A. They had one yard dock containers.
15 Q. I think you testified yesterday dock
16 containers are the ones on loading docks, is that
17 correct?
18 A. Yes.
19 Q. Did they have dock containers at each of
20 the buildings?
21 A. I don't remember.
22 Q. Did they have a loading dock at each of
23 the buildings?
24 A. I don't remember that either.

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1 Q. Did any of the buildings have a loading
2 dock?
3 A. One that I remember.
4 Q. So that, to the best of your
5 recollection, you can only say for sure that there
6 was one dock container, is that correct?
7 A. No.
8 Q. Were there more?
9 A. There was more than one container at

10 that building.
11 Q. Okay. How many containers were at that
12 building?
13 A. As I recollect, I usually picked up five
14 to six a day.
15 Q. You only made one stop at Abbott each
16 day?
17 A. Yes.
18 MR. RANDOLPH: Do you mean one time at the
19 park in general or do you mean one stop within the
20 park?
21 MR. RODRIGUEZ: I'm sorry.
22 BY MR. RODRIGUEZ:
23 Q. One time at the park in general?
24 A. Right. One time a day.

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1 Q. I'm not sure if I asked you this, but
2 did you go to Abbott every day?
3 A. Yes.
4 Q. Were the containers inside or outside?
5 A. Inside.
6 Q. Did you have to speak to anybody when
7 you were at Abbott?
8 A. Usually I had to have someone sign the
9 ticket.
10 Q. Abbott was one of those accounts where a
11 ticket was actually signed by an Abbott employee?
12 A. I believe so, yes.
13 Q. So each day you were there you had to
14 see somebody from Abbott.
15 A. Yes.
16 Q. Did you deal with the same person every
17 day?
18 A. I don't remember.
19 Q. How did you gain access to the building?
20 A. The dock workers were always there and
21 the door was open.
22 Q. Did you go in through an overhead door?
23 A. Backed up to a dock and used overhead
24 doors.

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1 Q. But the dock itself, was it inside or
2 outside? The dock itself I'm talking about.
3 A. It was inside.
4 Q. And there was an overhead door?
5 A. Yes.
6 Q. You went through the door to get to the
7 dock?
8 A. No. The dock came right up to the edge
9 of the door.
10 Q. Okay.
11 A. The door closed on the dock.
12 Q. Facing --

13 A. My truck was outside. The dock was
14 right at the edge.
15 Q. Were mechanical devices needed to unload
16 the containers at Abbott?
17 A. No.
18 Q. How were they unloaded?
19 A. Dock containers. You just tip them.
20 Q. Were you the person that unloaded the
21 containers?
22 A. Yes.
23 Q. Do you recall or do you have a memory
24 about what the contents of the containers were at

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1 Abbott?
2 A. Office papers, lunchroom papers and
3 corrugated.
4 Q. Do you recall anything else being in
5 their containers?
6 A. No.
7 Q. By "lunchroom," I take it you mean --
8 A. Where the people had their lunch.
9 Q. Cafeteria waste?
10 A. I don't believe they had a cafeteria
11 there. Bag lunches.
12 Q. Bag lunches.
13 Do you recall ever making any special
14 runs to Abbott?
15 A. No.
16 Q. Do you recall whether the contents of
17 the containers remained the same over time?
18 A. I don't remember any changes.
19 Q. Okay. Why don't we deal with the
20 monkey? I'm going to show you what has been marked
21 Exhibit 30.
22 A. I have got to get my glasses.
23 Q. First of all, I want to ask you again
24 you didn't prepare this document when it was

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1 originally prepared, did you?
2 A. No.
3 Q. Do you recall preparing any portion of
4 this document? You can take a look at it again, if
5 you would like.
6 A. I remember being questioned about some
7 of these things.
8 Q. Do you recall when that was?
9 A. No, I don't.
10 MR. RANDOLPH: Excuse me one second.
11 (WHEREUPON, discussion was had
12 off the record between the witness
13 and Mr. Randolph outside the
14 hearing of other counsel and the
15 court reporter.)

16 MR. RANDOLPH: Go ahead. I'm sorry.
17 BY MR. RODRIGUEZ:
18 Q. Do you recall who it was that questioned
19 you about this?
20 A. No.
21 Q. Exhibit 30 appears to have been signed
22 by a Robert Gulley from Browning-Ferris Industries
23 of Illinois or on behalf of Browning-Ferris
24 Industries of Illinois.

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1 Do you know a Robert Gulley?
2 A. I don't remember him.
3 Q. The name doesn't ring a bell?
4 A. No.
5 Q. Again, I think I asked you whether you
6 had -- and I'm not sure whether I got an answer or
7 not. I'm going to ask it again.
8 When was it that you were questioned
9 about the things that are discussed in Exhibit 30?
10 A. I don't remember.
11 Q. Were you still with Browning-Ferris?
12 A. I don't remember the meeting or the
13 lawyer so I wouldn't know.
14 Q. You think it was a lawyer that
15 questioned you about this.
16 A. I don't know. I'm just -- I'm sorry. I
17 assumed. Shouldn't assume.
18 Q. But you do recall being questioned about
19 it.
20 A. I don't remember this particular time.
21 Q. You were still employed with
22 Browning-Ferris during the summer of 1989, were you
23 not?
24 A. Yes.

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1 Q. At that time were you in Wilmette?
2 A. No.
3 Q. Were you in the Waukegan district?
4 A. Yes.
5 Q. Were you the district manager at that
6 time?
7 A. Yes.
8 (WHEREUPON, Mr. William P. Anderson
9 entered the deposition proceedings.)
10 BY MR. RODRIGUEZ:
11 Q. Where was your office at that time?
12 That was Ernie Krueger Circle?
13 A. Yes.
14 Q. Where was your supervisor's office?
15 A. Schaumburg.
16 Q. Do you recall ever going to Schaumburg
17 to discuss the matters that are discussed in
18 Exhibit 30?

19 A. I just don't recall that.
20 Q. Who was your supervisor at that time?
21 A. Everett Vandermeulen.
22 Q. You have no recollection of Mr.
23 Vandermeulen ever asking you about the matters that
24 are discussed in Exhibit 30?

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1 A. No.
2 Q. Were there any attorneys that worked in
3 Schaumburg that you know of?
4 A. I don't know.
5 Q. BFI didn't have any attorneys at Ernie
6 Krueger Circle.
7 A. No.
8 Q. Do you have any recollection of any
9 conversations relating to the Yeoman Creek Landfill
10 during the late eighties while you were employed at
11 BFI?
12 A. I probably was asked some questions, but
13 I do not recall.
14 Q. So you have no specific recollection of
15 ever being interviewed or questioned about the
16 Yeoman Creek Landfill while you were at BFI in the
17 late eighties.
18 A. Right.
19 Q. During that same time period while you
20 were at BFI, did you have any conversations with
21 Ole Kirkegaard about the Yeoman Creek Landfill?
22 A. I don't recall any.
23 Q. Do you recall having conversations with
24 anyone during that time period about the Yeoman

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1 Creek Landfill?
2 MR. RANDOLPH: You are asking if he recalls
3 any specific conversations again?
4 MR. RODRIGUEZ: Right.
5 MR. RANDOLPH: Okay.
6 BY THE WITNESS:
7 A. No.
8 BY MR. RODRIGUEZ:
9 Q. Can you turn to Page 7 of that exhibit?
10 Can you review that last paragraph? Take a moment
11 to look at that last paragraph on Page 7.
12 Are you done reviewing it?
13 A. Yes.
14 Q. Based on that review of this paragraph,
15 which I take it you didn't write that particular
16 paragraph, is that correct?
17 A. No, I did not write it.
18 Q. Okay. Based on your review of that
19 paragraph, do you have a memory, a specific
20 recollection of any unique occurrence while you
21 made a stop at Abbott Labs?

22 A. I was backing up to the dock, and these
23 fellows are standing out there on the dock and they
24 were laughing at me. When I backed up, they told

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1 me to look up. There was a monkey on top of the
2 truck.
3 Q. Is this while you were backing in or
4 backing out?
5 A. You didn't back out because you never
6 went in. That's the dock I'm talking about. You
7 backed up to the dock so you're backing up to it.
8 Q. Okay. Was this after you had unloaded
9 the containers into the truck?
10 A. No.
11 Q. This was before you had unloaded the
12 Abbott containers?
13 A. Yes.
14 Q. And you stepped out of the truck at that
15 point and looked and saw a monkey on top of the
16 truck?
17 A. Yes.
18 Q. Did you see the monkey get up there?
19 A. No.
20 Q. What happened to the monkey?
21 A. They called the monkey-catching crew.
22 Q. And what did they do?
23 A. They caught him.
24 Q. I take it the monkey never ended up in

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1 the truck.
2 A. I don't know.
3 MR. RANDOLPH: Never is a long time.
4 BY MR. RODRIGUEZ:
5 Q. That day the monkey didn't end up in the
6 truck.
7 A. I really don't know. Well, I guess --
8 the monkey did crawl down in the garbage when they
9 came to get him and then they got him out.
10 Q. Okay. And they took him away?
11 A. Yes.
12 Q. At that point you unloaded the dock
13 containers into the truck.
14 A. Yes.
15 Q. And you left.
16 A. Right.
17 Q. Do you recall any other unique
18 circumstances or events that happened while you
19 were at Abbott?
20 A. No.
21 Q. After reviewing this paragraph in
22 Exhibit 30, do you recall anything else about what
23 was in the containers at Abbott?
24 A. No. No.

1 Q. So your prior testimony would remain the
2 same, you saw office papers --
3 A. Yes.
4 Q. -- lunchroom and corrugated, is that
5 correct?
6 A. Yes.
7 Q. You don't remember any changes over
8 time.
9 A. No.
10 Q. Yesterday you also testified that Abbott
11 hauled its own waste to the landfill.
12 Do you recall that testimony?
13 A. Yes.
14 Q. I take it by "Abbott" you meant Abbott
15 Laboratories, also.
16 A. Yes.
17 Q. Okay. How is it that you know that
18 Abbott Laboratories hauled its own waste to the
19 landfill?
20 A. I would see their trucks in the
21 landfill.
22 Q. During what time period was this?
23 A. I guess you might say six years that I
24 was there.

1 Q. Can you describe the trucks?
2 A. Really the only ones that I remember is
3 the dump trucks.
4 Q. Describe the dump truck for me.
5 A. Just a regular dump truck.
6 Q. What color was it?
7 A. Let's see. I can't remember.
8 Q. How big was it?
9 A. Average size dump truck.
10 Q. What is an average size?
11 A. Six, ten yards.
12 Q. How do you know they were Abbott trucks?
13 A. They had the Abbott logo on them.
14 Q. They had the logo on them?
15 A. Yes.
16 Q. Can you describe the logo?
17 A. No.
18 Q. Did it say "Abbott" on the truck?
19 A. Yes.
20 Q. So it had both the logo and "Abbott" on
21 the truck?
22 A. I believe it had "Abbott" in the logo.
23 Q. Do you recall any other truck?
24 A. No, I really don't, not at that time

1 period.
2 Q. Do you recall any other trucks during
3 any time period?
4 MR. RANDOLPH: At Yeoman Creek or Abbott
5 trucks of any kind?
6 MR. RODRIGUEZ: Well, he was the one that
7 limited it. I'm just wondering if he knows of any
8 other Abbott trucks.
9 MR. RANDOLPH: I understand, but you are
10 asking him now just so I'm clear all the way up to
11 the present time.
12 MR. RODRIGUEZ: Yes.
13 MR. RANDOLPH: Okay.
14 BY THE WITNESS:
15 A. Yes.
16 BY MR. RODRIGUEZ:
17 Q. What other kinds of Abbott trucks do you
18 know about?
19 A. 25-yard, 2-R leach.
20 Q. 25-yard?
21 A. 2-R.
22 Q. 2-R?
23 A. 2-R leach.
24 Q. Okay. How do you know about those

1 trucks or that truck?
2 A. They were dumping -- I don't know
3 whether they still are. It went to Winthrop Harbor
4 Landfill.
5 Q. Do you recall ever seeing the 25 yard
6 leach trucks at Yeoman Creek?
7 A. I don't know whether they existed at
8 that time. No.
9 Q. So you didn't see it.
10 A. No.
11 Q. Was it a dump truck or were there more
12 than one dump truck?
13 A. I don't know.
14 MR. RANDOLPH: We have been at it over an
15 hour. Are you wrapping up?
16 MR. RODRIGUEZ: I'm getting pretty close, yes.
17 BY MR. RODRIGUEZ:
18 Q. How often did you see the dump trucks at
19 the landfill?
20 A. Occasionally.
21 Q. Would occasionally mean every day, once
22 a week? Can you put a reasonably accurate estimate
23 on it? If you can do it --
24 A. No. I have no idea.

1 Q. But you didn't see them there every
2 day.

3 A. I don't remember.
4 Q. So you have no recollection then other
5 than occasionally as to how often you might have
6 seen an Abbott dump truck at the landfill.
7 A. Correct.
8 Q. Did you have occasion to speak to any of
9 the drivers of these trucks?
10 A. No.
11 Q. Did you ever have occasion to see the
12 contents of the truck?
13 A. I don't ever remember seeing contents.
14 Q. So you never looked inside one of the
15 Abbott trucks.
16 A. No.
17 Q. Did you ever see one of the Abbott
18 trucks unload at the landfill?
19 A. Not that I can recall.
20 Q. I just have one or two questions about
21 your testimony yesterday with respect to Goodyear.
22 I think yesterday you said you used to
23 take what sounded to be salvageable -- I know that
24 wasn't your word, but that's my word -- things out

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1 of Goodyear's waste stream. I think you said there
2 was led or brass fittings that they were getting
3 rid of.
4 A. Yes.
5 Q. Were there ever occasions where you
6 didn't take that stuff and sell it?
7 A. No.
8 Q. Did their waste stream change over
9 time -- strike that.
10 For the whole time that you were driving
11 the commercial route, did they always have these
12 types of materials in their garbage?
13 A. Yes.
14 Q. Were they on the commercial route before
15 you started driving -- at the time that you started
16 to drive it?
17 A. Yes.
18 Q. I think yesterday you testified that you
19 were fired by BFI in May of '91, is that correct?
20 A. Yes.
21 Q. I think you testified earlier today that
22 you met with Mr. Randolph and Mr. Bleiweiss at OMC
23 about a year or year and a half ago, is that true?
24 A. Yes.

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1 Q. At the time that you met with them, were
2 you still employed with BFI or had you already been
3 terminated?
4 A. I had been terminated.
5 Q. Were Mr. Randolph and Mr. Bleiweiss the

6 only people present during that interview?
7 A. I believe there was an OMC lawyer.
8 Q. Did they discuss with you at that time
9 whether Abbott had ever used the Yeoman Creek
10 Landfill?
11 MR. RANDOLPH: I'm going to object and
12 instruct him not to answer.
13 MR. RODRIGUEZ: On what basis?
14 MR. RANDOLPH: Same bases as earlier,
15 attorney-client and work product.
16 MR. RODRIGUEZ: As this morning?
17 MR. RANDOLPH: Yes.
18 MR. RODRIGUEZ: Okay.
19 BY MR. RODRIGUEZ:
20 Q. What did they tell you and what did you
21 tell them about Abbott's use of the landfill?
22 MR. RANDOLPH: Same objections.
23 Same instruction.
24 BY MR. RODRIGUEZ:

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1 Q. Did they show you anything at that time
2 in terms of papers, maps or any kinds of papers or
3 documents?
4 MR. RANDOLPH: Same objection.
5 Same instruction.
6 BY MR. RODRIGUEZ:
7 Q. When you met with Mr. Randolph on
8 Monday, did he show you any papers, whether they
9 were maps or letters or notes of any kind, which
10 helped you remember the things you have testified
11 today and yesterday about Abbott?
12 MR. RANDOLPH: My only objection to that
13 question is it has been asked and answered this
14 morning.
15 MR. RODRIGUEZ: No. This is specifically
16 about Abbott.
17 MR. RANDOLPH: Excuse me. That was asked
18 generally, but I'll withdraw the objection.
19 You go ahead and answer that question,
20 if we showed you anything to refresh your memory
21 about Abbott on Monday.
22 BY THE WITNESS:
23 A. No.
24 BY MR. RODRIGUEZ:

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1 Q. Did he tell you anything that helped you
2 remember your testimony today about Abbott and the
3 Yeoman Creek Landfill?
4 MR. RANDOLPH: Objection.
5 Instruct him not to answer.
6 BY MR. RODRIGUEZ:
7 Q. Okay. I just want to make sure I have
8 got this clear. At the time from 1963 to 1969 you

9 were only employed as a helper and a driver at BFI,
10 is that correct?

11 A. That's correct.

12 MR. RODRIGUEZ: I have no further questions --

13 MR. RANDOLPH: Could we take about a
14 five-minute break?

15 MR. RODRIGUEZ: -- at this time. I think I
16 might be coming back for a short follow-up, too,
17 when we are all done so I'll be back, but literally
18 for five minutes.

19 MR. RANDOLPH: Okay. Let's take five
20 minutes.

21 (WHEREUPON, a recess was had.)

22 BY MR. RODRIGUEZ:

23 Q. Mr. Powles, is Mr. Bleiweiss now or has
24 he ever been your lawyer?

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1 A. No.

2 MR. RODRIGUEZ: Now, you are going to have to
3 help me with your last name (indicating).

4 MR. AHUJA: Ahuja.

5 BY MR. RODRIGUEZ:

6 Q. Is this gentleman here (indicating)?

7 MR. RANDOLPH: Ahuja.

8 BY MR. RODRIGUEZ:

9 Q. Has Mr. Ahuja ever been your lawyer?

10 MR. RANDOLPH: Okay. As I explained on the
11 record this morning, as a former BFI employee --

12 MR. RODRIGUEZ: I'm asking the witness.

13 MR. RANDOLPH: I know, but I'm making a
14 statement for the record that we are
15 representing -- both Mr. Ahuja and certainly myself
16 are representing Mr. Powles in his capacity as a
17 former management person at BFI. I'll state that
18 for the record.

19 You can answer the question.

20 MR. RODRIGUEZ: You're representing him as a
21 former management --

22 MR. RANDOLPH: And a former employee of BFI,
23 correct.

24 Go ahead. You can answer the question.

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1 BY THE WITNESS:

2 A. Well, I guess now they are. Never
3 before.

4 BY MR. RODRIGUEZ:

5 Q. Okay. Never before today?

6 A. That's correct.

7 Q. Okay. So on Monday, when you met with
8 these gentlemen, they were not your attorneys, as
9 you understood it.

10 A. Well, I understood they were BFI
11 attorneys.

12 Q. Okay. When you had the meeting with Mr.
13 Bleiweiss and Mr. Randolph and the OMC lawyer, at
14 that time you did not have an understanding or it
15 was not your impression or they were not, as you
16 knew it, your lawyers.
17 MR. RANDOLPH: I'm not sure I understand that
18 question at all.
19 MR. RODRIGUEZ: Okay. I'll rephrase it.
20 BY MR. RODRIGUEZ:
21 Q. At the time that you met with Mr.
22 Bleiweiss and Mr. Randolph and the OMC lawyer a
23 year and a half ago, at that time you did not
24 understand them as representing you, as being your

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1 attorneys.
2 MR. RANDOLPH: As his personal attorney?
3 MR. RODRIGUEZ: As his attorney however he
4 understands it.
5 BY THE WITNESS:
6 A. Not my personal attorney, no.
7 BY MR. RODRIGUEZ:
8 Q. As your attorney in any capacity?
9 A. No. Well, no. I took them as BFI --
10 representing BFI.
11 MR. RODRIGUEZ: Okay. Thank you.
12 EXAMINATION
13 BY MR. SEIDMAN:
14 Q. During the time you were a driver on the
15 commercial route for National Disposal, what size
16 was the commercial truck that you drove?
17 A. 17 yard leach push-out.
18 Q. Is there some significance to the term
19 "push-up"?
20 A. Push-out.
21 Q. Push-out?
22 A. Yes.
23 Q. Is there some significance to the term
24 "push-out"?

1 A. Black mainly.
2 Q. What type of odor did it have?
3 A. It had a sewage odor.
4 Q. What happened to that waste?
5 A. Went to Yeoman Creek Landfill.
6 Q. Did you pick up that waste both when you
7 were primarily assigned to the commercial route, as
8 well as when you were a sub on the commercial
9 route?
10 A. Yes.
11 Q. Do you recall if you dealt with anyone
12 specifically at the North Shore Sanitary District?
13 A. No, I do not.
14 Q. Do you ever recall learning that Abbott
15 had any type of a permit to dispose of waste
16 medicines at Yeoman Creek?
17 A. I wouldn't know that.
18 Q. Okay. Do you recall any incident in
19 which you learned that a driver for National
20 Disposal was stabbed with a hypodermic needle at a
21 pickup at Victory Hospital?
22 A. Yes.
23 Q. Who did you learn that from?
24 A. Charles Iverson.

1 IN THE UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION
4 WAUKEGAN COMMUNITY SCHOOL)
5 DISTRICT NO. 60, et al.,)
6 Plaintiffs,) VOLUME I
7 v.) Case No. 92 C 7592
8 ABBOTT LABORATORIES, et al.) Judge Leinenweber
9 Defendants.) Magistrate Judge Rosemond

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The deposition of JOHN VAN PROOYEN,
called as a witness herein for examination, taken
pursuant to the Federal Rules of Civil Procedure of
the United States District Courts pertaining to the
taking of depositions, taken before MELANIE JAKUS,
a Notary Public within and for the County of
DuPage, State of Illinois, and a Certified
Shorthand Reporter of said state, at Suite 6600,
233 South Wacker Drive, Chicago, Illinois, on the
26th day of October, A.D. 1993, at 9:30 a.m.

1 left the deposition proceedings.)
2 BY MR. VARICK:
3 Q. Mr. Van Prooyen, when you took over as
4 district manager for the Waukegan district, who
5 were the principal industrial customers of Waukegan
6 Disposal?
7 MR. RANDOLPH: Waukegan Disposal?
8 MR. VARICK: I'm sorry. Of National
9 Disposal. Thank you. I don't know where my head
10 was.
11 MR. RANDOLPH: In Waukegan?
12 BY THE WITNESS:
13 A. You want large industrial accounts?
14 BY MR. VARICK:
15 Q. Yes.
16 A. Goodyear, American Hospital, Anchor
17 Hocking, U.S. Steel. My mind is going slower at
18 the moment.
19 Q. It happens to all of us at this point in
20 the day.
21 Can you recall any others?
22 A. Not probably without you refreshing my
23 memory.
24 Q. Those are the ones I was principally

1 concerned about. Was the waste from --
2 A. Oh, Abbott Labs.
3 Q. Can you recall any others?
4 A. Well, this was later though. I think it
5 was like that shopping center over by Belvidere and
6 Waukegan Road, I think. Montgomery Ward's in
7 there.
8 Q. Lakehurst?
9 A. I don't know what it was called any
10 more.
11 Q. There's Penney's and a Wieboldt's and a
12 Zayre's there?
13 A. If they were in Lakehurst, we
14 undoubtedly hauled them.
15 MR. RANDOLPH: The question was do you recall
16 them being --
17 MR. VARICK: Customers.
18 MR. RANDOLPH: -- in that shopping center.
19 BY THE WITNESS:
20 A. I do not recall that. Okay.
21 BY MR. VARICK:
22 Q. Let me take you back to these ones you
23 identified before.
24 Goodyear. During the time you were

1 A. That is correct.
2 Q. Okay. But the other accounts that you
3 have identified though were accounts at the time
4 you took over.
5 A. To the best of my knowledge, yes.
6 Q. Okay. Did National have any paint
7 stores as clients or customers during the time you
8 were district manager?
9 A. I don't know.
10 Q. In the operation of the landfill, you
11 accepted waste brought in by other hauling or
12 garbage companies, right?
13 A. That is correct.
14 Q. Do you remember which companies brought
15 in waste to the landfill at the time you were
16 district manager?
17 A. There were several.
18 Q. Can you tell us which ones you recall?
19 A. Well, of course, Waukegan Disposal,
20 which was Kirkegaard, John Sisson, Century, Jensen,
21 Obenauf. There's more.
22 Q. How about D & L?
23 A. D & L.
24 Q. Any others?

1 A. And I think there's also Dutton.
2 Q. Dutton was the "D" in "D & L," right?
3 A. It could have been. I don't know how
4 they were set up. I really don't remember.
5 Q. Any others you can think of?
6 A. Not right now.
7 Q. How about North Chicago Disposal?
8 A. Oh, yes. Yes. Jesse Wallace.
9 Q. Any others?
10 A. I'm sure there were more than that, but
11 right now I'm having a hard time thinking of it.
12 Q. Of those, which were the biggest
13 haulers, that is, which were the ones that brought
14 in the most waste to the site?
15 A. Waukegan Disposal.
16 Q. Which others?
17 A. We had a lot from Abbott. We had a
18 pretty good amount from Century. I believe those
19 were the largest.
20 Q. What was Century's waste like?
21 A. It was normal rubbish.
22 Q. Do you know where it came from?
23 A. I don't like to speculate, but I would
24 just have to answer right now I'm not positive.

1 A. Those two come to my mind.

2 Q. Other than Abbott, were there any other
3 companies that brought their own waste to the
4 landfill in the time you were district manager?

5 A. I can't say for sure. I don't know. It
6 seems to me there were, but I don't know.

7 Q. Do you recall how often Century brought
8 waste to the landfill?

9 A. To the best of my knowledge, it was on a
10 daily basis.

11 Q. What kind of truck did Century bring
12 that waste with?

13 A. Packer-type truck.

14 Q. And then occasionally with this dump
15 truck with drums.

16 A. That's correct.

17 Q. So as far as you can recall, the packer
18 was brought every day.

19 A. To the best of my knowledge.

20 Q. Do you know what the size was of the
21 packer truck?

22 A. Quite large one. To the best of my
23 knowledge, it was a 25 yard or a 20 yard. It was
24 one of those two.

1 IN THE UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION
4 WAUKEGAN COMMUNITY SCHOOL)
5 DISTRICT NO. 60, et al.,)
6 Plaintiffs,) VOLUME II
7 v.) Case No. 92 C 7592
8 ABBOTT LABORATORIES, et al.) Judge Leinenweber
9 Defendants.) Magistrate Judge Rosemond

10
11
12 October 27, 1993
13 9:30 a.m.

14
15 The deposition of JOHN VAN PROOYEN
16 resumed pursuant to adjournment at Suite 6600, 233
17 South Wacker Drive, Chicago, Illinois.
18
19
20
21
22

1 Before August 20 of 1971, do you know
2 whether National Disposal purchased any other
3 Waukegan hauling companies or assets of Waukegan
4 hauling companies?
5 A. To the best of my knowledge, I can't
6 remember any.
7 Q. Okay. So there weren't any other small
8 haulers whose routes National bought.
9 A. Not to my knowledge.
10 MR. VARICK: Okay. I don't have anything
11 further.
12 MR. RANDOLPH: Who's next?
13 MR. RODRIGUEZ: I think maybe I will ask a
14 question or two.
15 Why don't we go off for one minute?
16 (WHEREUPON, discussion was had
17 off the record.)
18 EXAMINATION
19 BY MR. RODRIGUEZ:
20 Q. Mr. Van Prooyen, yesterday I think you
21 testified that Abbott was a customer of the
22 landfill.
23 A. That is correct.
24 Q. Were they a customer of National

1 Disposal's hauling operation as well?
2 A. I don't quite understand the question.
3 Q. Yesterday you said that they were one of
4 the larger industrial customers National had. I
5 guess what I'm trying to find out is whether this
6 was a landfill customer or whether it was a
7 customer that National hauled for.
8 A. At the beginning they were a landfill
9 customer, and at a later time, I do not remember
10 the dates, we hauled some material out of there.
11 Q. When you say "at a later time," was that
12 during the time that you were at the landfill?
13 A. At the time I was there we were picking
14 up at Abbott Park.
15 Q. Did that start while you were there or
16 was National already picking up at Abbott Park when
17 you arrived in '67 or '8 I think you testified?
18 A. I don't really recall, but I believe we
19 were there at that point. I am not certain to that
20 so I would have to say I don't know.
21 Q. Okay. As I understand it, then,
22 National did some pickups for Abbott Park, and your
23 testimony is that Abbott also hauled its own waste
24 to the landfill, is that correct?

1 A. Yes.
2 Q. Okay. Now, you would have billed both

3 of those regardless of whether it was a hauling
4 customer or whether it hauled its own. All of the
5 billing would have gone through you.
6 A. They would have both gone through our
7 office.
8 Q. Did you ever see Abbott trucks at the
9 landfill yourself?
10 A. Yes, I did.
11 Q. Can you describe what those trucks
12 looked like?
13 A. I know they had large --
14 MR. RANDOLPH: Can we specify which kind of
15 trucks we're talking about?
16 MR. RODRIGUEZ: I want him to specify what the
17 trucks looked like.
18 BY THE WITNESS:
19 A. To the best of my knowledge, they had
20 one tandem axle packer truck.
21 BY MR. RODRIGUEZ:
22 Q. I'm sorry. Can you repeat that?
23 A. To the best of my knowledge, they had
24 one tandem axle packer truck. I don't know if they

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1 had one or two, but it was a tandem axle, and I
2 don't remember whether it was a Leach body, but it
3 was, I believe, a 25 cubic yard truck, and I recall
4 seeing open-type trucks at the landfill.
5 Q. The tandem axle packer, do you recall
6 what color it was?
7 A. To the best of my knowledge, it was
8 white.
9 Q. Did it have any identifying marks on it?
10 A. To the best of my knowledge, they did
11 not have a name on the truck.
12 Q. An insignia?
13 A. I just don't recall.
14 Q. Did you ever speak to any of the drivers
15 on a packer truck?
16 MR. RANDOLPH: Abbott drivers you mean?
17 MR. RODRIGUEZ: Yes.
18 BY THE WITNESS:
19 A. I don't know. I just don't recall
20 whether I had or not.
21 BY MR. RODRIGUEZ:
22 Q. Did you know who any of the drivers
23 were?
24 A. I sure cannot remember their names, no.

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1 Q. Do you remember who you dealt with at
2 Abbott?
3 A. I remember meeting Tony Urban once.
4 That's the only name that rings a bell with me from
5 Abbott.

6 Q. What did Mr. Urban do?
7 A. I don't know what his capacity was with
8 Abbott's exactly.
9 Q. What was the purpose of your meeting
10 with him?
11 A. To the best of my knowledge, when I met
12 Mr. Urban, they wanted a quote, and I believe it
13 was -- I don't know. I don't even remember now
14 what operations were where. I know you had Abbott
15 Park. There was another plant, and they wanted a
16 quote on hauling the rubbish which they were at one
17 time hauling with their 25 packer. They wanted a
18 quote. I was down there with Mr. Northcote from
19 Barrington, the salesman, and at that time I met
20 Tony Urban.
21 Q. So this was a quote on business other
22 than Abbott Park.
23 A. To the best of my knowledge, yes.
24 Q. This was one time you met with Urban.

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1 A. That was the only time.
2 Q. Where did you meet with him?
3 A. Somewhere at that plant. I just don't
4 recall where.
5 Q. And Northcote went with you.
6 A. Yes, and we were shown the facilities
7 and where the trash would be and how many pickup
8 locations. That's about all I can remember of
9 that.
10 Q. Can you describe the plant?
11 A. Not really. I cannot, no.
12 Q. Was there more than one building?
13 A. Yes.
14 Q. Can you tell me how many buildings there
15 were?
16 A. No, I sure can't.
17 Q. Can you tell me how many pickup
18 locations there were?
19 A. There were multiple locations. I don't
20 remember how many.
21 Q. How long did this meeting last?
22 A. To the best of my knowledge, we were on
23 their premises two to three hours.
24 Q. Do you remember when this meeting took

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1 place?
2 A. I sure don't.
3 Q. Was it while National Disposal still had
4 the landfill contract?
5 A. I don't recall. I just don't remember
6 that date, sir.
7 Q. Did you ever speak to Mr. Urban again?
8 A. Not to the best of my knowledge.

9 Q. Did he ever call National Disposal
10 again?
11 A. I don't know what further conversations
12 he may have had with Mr. Northcote. I'm not aware
13 of that.
14 Q. Did Abbott's plant become a customer of
15 National Disposal? Did you get the business is
16 another way of asking.
17 A. I think at that time, to the best of my
18 knowledge, they continued to haul it themselves.
19 Q. Going back to the packer trucks, do you
20 recall ever seeing a packer unload at the landfill?
21 A. An Abbott packer truck?
22 Q. Yes.
23 A. Yes.
24 Q. When did you see this?

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1 A. Daily.
2 Q. Each day you were at the landfill or
3 every day --
4 A. I did not personally see it dump, but by
5 the yardage tickets it was dumped daily generally.
6 Q. So you personally did not see it empty.
7 A. I did not see it every time it came in
8 the landfill, no, sir.
9 Q. Did you ever on any occasion see a
10 packer unload at the landfill?
11 A. Yes.
12 MR. RANDOLPH: Just so we are clear, an Abbott
13 packer?
14 MR. RODRIGUEZ: Yes.
15 BY THE WITNESS:
16 A. Yes.
17 BY MR. RODRIGUEZ:
18 Q. All of my questions for now will be
19 about Abbott packers.
20 A. I understand that. Yes, I had.
21 Q. Okay. How often did you see that?
22 A. Multiple times. I really don't know.
23 Q. Do you think it was more than ten times?
24 A. I couldn't answer that. I really don't

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1 know how many times.
2 Q. Did you go to the working face often?
3 A. Almost every day that I was there I
4 would be out there at some point, yes.
5 Q. How often did you say you were at the
6 Waukegan landfill?
7 A. Two to three times per week.
8 Q. Can you describe the contents of these
9 packers?
10 A. No, I really cannot. I'd classify it as
11 general rubbish.

12 Q. Now, on days that you were at the
13 landfill, did you see an Abbott packer there every
14 day that you were there? I'm asking you what you
15 saw up there.
16 A. I'm sure there's been days when I missed
17 it going in, but I saw it many, many times.
18 Q. Okay. On the basis of --
19 MR. RODRIGUEZ: Can we take a minute?
20 (WHEREUPON, discussion was had
21 off the record.)
22 BY MR. RODRIGUEZ:
23 Q. Can you tell me how often Abbott packers
24 were at the landfill?

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1 A. How often Abbott's packers?
2 Q. Were at the landfill.
3 MR. RANDOLPH: From either personal knowledge
4 or any other source?
5 MR. RODRIGUEZ: From any other source.
6 BY THE WITNESS:
7 A. From my tickets and such, to the best of
8 my recollection, they were in at least once a day
9 with the packer truck.
10 BY MR. RODRIGUEZ:
11 Q. You anticipated my next question.
12 The way you know that is based on what?
13 A. On my tickets, signed tickets.
14 Q. These would have been the tickets that
15 Laddie would have given these fellows.
16 A. Right, where we keep a copy and the
17 driver keeps a copy.
18 Q. It's on the basis of those tickets that
19 you were able to send information to Barrington for
20 the preparation of a billing statement.
21 A. That is correct.
22 Q. Abbott Park you said was a customer at
23 the time, or I think you said you weren't sure
24 whether they were a customer at the time you went

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1 to Waukegan, is that correct?
2 A. At the time I started there, I believe
3 they were. I cannot pinpoint a date when we
4 started at Abbott Park, but they were a customer
5 while I was there.
6 Q. Did you yourself ever go to Abbott Park?
7 A. Yes.
8 Q. How often did you go to Abbott Park?
9 A. I was there I only recall one time.
10 Q. What was the purpose of your visit?
11 A. I was doing a time study on the truck.
12 Q. This was a study of your vehicle --
13 A. Of our vehicle, how long it took to pick
14 up each customer.

15 Q. So the study didn't focus on Abbott per
16 se but, rather, on this particular driver and the
17 route.
18 A. That's right, and make sure we were
19 getting paid the proper amount for the time we were
20 spending there..
21 Q. Do you recall what Abbott Park looks
22 like?
23 A. Vaguely. About as much knowledge as I
24 have is that they are red brick buildings, and

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1 that's only just -- I can imagine from 20 years
2 ago.
3 Q. You can't recall the number of
4 buildings.
5 A. No. There were multiple pickup
6 locations is all I can tell you.
7 Q. Can you provide a reasonably fair
8 estimate of the number of locations? I don't want
9 you to take a wild guess. If you can give a fair
10 guess.
11 A. I really cannot.
12 Q. Do you recall what type containers they
13 had there?
14 A. They were the one or two yard variety
15 that were on wheels.
16 Q. Did Abbott get billed by the yard?
17 A. Yes, they did.
18 Q. When National Disposal picked up from a
19 customer, they charged that customer by the yard
20 for the pickup service, is that correct?
21 A. I don't quite understand that.
22 Q. Well, when they got charged by National
23 Disposal, what was it exactly that a customer was
24 paying for?

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1 A. At Abbott Park you are referring to?
2 Q. Any customer.
3 A. Well, they are paying for -- the
4 container price is figured in there and the hauling
5 charge.
6 Q. There was no tipping charge or tipping
7 fee or dump fee that National Disposal had to pay,
8 is that correct?
9 A. That is correct.
10 Q. Do you recall what you charged your
11 customers for pickup?
12 A. No, I don't remember that.
13 Q. How often were pickups made at Abbott
14 Park?
15 A. To the best of my knowledge, that was a
16 daily stop.
17 Q. When you say, "To the best of your

18 knowledge," are you saying you think it was a daily
19 stop or you're not sure?
20 (WHEREUPON, Mr. Robert W. York
21 entered the deposition proceedings.)
22 BY THE WITNESS:
23 A. Just as much as I can remember, it was a
24 daily stop.

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1 BY MR. RODRIGUEZ:
2 Q. It could have been less frequently.
3 MR. RANDOLPH: Objection.
4 BY THE WITNESS:
5 A. To the best of my knowledge, it was a
6 daily stop.
7 BY MR. RODRIGUEZ:
8 Q. Could it have been less frequently?
9 A. I can't answer that.
10 MR. RANDOLPH: Objection as asked and
11 answered.
12 BY MR. RODRIGUEZ:
13 Q. You can't. Is it because you don't
14 know?
15 A. That is correct.
16 Q. Do you know who the driver was that
17 picked up at Abbott Park?
18 A. To the best of my knowledge, it was
19 Marvin Powles.
20 Q. Well, was Powles the driver that would
21 have driven all the industrial accounts during that
22 period of time that you were there?
23 A. Most of the packer-type accounts, yes.
24 For part of that period, not the whole period.

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1 Q. Who else would have driven it during
2 that period?
3 A. I believe, to the best of my knowledge,
4 his brother, Jerry, ran it after Marvin. It was
5 either Jerry Powles or Charles Iverson. I do not
6 recall which one.
7 MR. RANDOLPH: Gabe, we have been at it a
8 little over an hour. Can we take a short break?
9 MR. RODRIGUEZ: Yes.
10 (WHEREUPON, a recess was had.)
11 (WHEREUPON, Mr. Steven B. Varick
12 left the deposition proceedings.)
13 BY MR. RODRIGUEZ:
14 Q. Mr. Van Prooyen, I think right before we
15 took the break you were telling me that Marvin
16 Powles was the regular driver of that route and
17 that at some point Jerry Powles or Charles Iverson
18 may have driven that route as well.
19 A. To the best of my knowledge, yes.
20 Q. Do you recall ever having any

21 conversations with any of those three gentlemen
22 about the Abbott account specifically?
23 A. No, I do not recall any specific
24 conversations.

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1 Q. Was Abbott Park a customer of National
2 Disposal up until the time National Disposal lost
3 the contract to operate the landfill?
4 A. I can't remember that, the dates. I
5 can't remember that exactly.
6 Q. Once National lost the landfill account,
7 I know that you have testified you can't recall
8 what landfill National Disposal used thereafter,
9 but what happened to the industrial accounts that
10 National was servicing prior to losing the
11 contract?
12 A. We continued picking them up.
13 Q. You retained those customers.
14 A. To the best of my knowledge, yes.
15 Q. So you had lost the residential account
16 for the city of Waukegan, but you were able to
17 retain your business with industrial customers.
18 A. That is correct.
19 Q. Do you recall whether you lost any of
20 those customers as a result of losing the contract?
21 A. I don't recall losing any more than we
22 normally lost back and forth through the
23 competition.
24 Q. So losing the landfill contract itself

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1 didn't lead to any kind of degradation of your
2 industrial business.
3 A. Not to the best of my knowledge.
4 Q. Okay. You also mentioned that you saw
5 some open trucks.
6 A. That is correct.
7 Q. Abbott trucks?
8 A. Yes, sir.
9 Q. Can you describe those trucks?
10 A. To the best of my knowledge, it was an
11 open bed dump type truck.
12 Q. Did it have any identifying marks on
13 them?
14 A. Not that I can really recall.
15 Q. How often did you see that truck?
16 A. Periodically. I cannot say how many
17 times. I don't know.
18 Q. Did you ever see the contents of that
19 truck?
20 A. To the best of my knowledge, it usually
21 came in with drums.
22 Q. What kind of drums were there?
23 A. To the best of my knowledge, most of

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1 Q. Steel drums?
2 A. To the best of my knowledge, yes.
3 Q. Did you ever speak to the driver of that
4 dump truck?
5 A. I don't recall any conversation with the
6 driver.
7 Q. Do you know who the driver was?
8 A. I do not.
9 Q. How were those shipments to the landfill
10 billed?
11 A. On a ticket basis, on the yardage. I
12 believe it was, yes.
13 Q. Would the yardage for a drum shipment
14 like that be estimated?
15 A. I just don't recall exactly how -- if it
16 was a per drum charge. I would imagine that it
17 was. To the best of my knowledge, it was charged
18 per drum.
19 Q. Rather than a per yardage charge.
20 A. To the best of my knowledge, yes.
21 Q. So as you were reviewing your tickets to
22 prepare your summary to send to Barrington, would
23 you be able to tell from the tickets then whether
24 you were looking at a shipment that was a drum

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1 shipment as opposed to a packer shipment?
2 A. Yes.
3 Q. Do you recall from looking at the
4 tickets how frequently a drum shipment would have
5 come into the landfill as compared to packer
6 shipment?
7 A. I really can't. I really don't know.
8 It was not on a daily basis. That I do know.
9 Q. So it would have been less frequent than
10 the packer.
11 A. To the best of my knowledge, yes.
12 Q. Did you ever see those trucks unload?
13 A. Yes.
14 Q. How often did you see that?
15 A. I don't recall the frequency.
16 Q. Did you see it more than once?
17 A. I would say that I saw it at least
18 once. I don't recall the frequency of it.
19 Q. On that occasion that you saw the drum
20 shipment unload or the open truck unload, can you
21 describe how it was unloaded?
22 A. I can remember one time when I was
23 watching because it kind of caught my eye. There
24 was a drum being dumped. It was tipped over onto

1 the tailgate, and the cover on top of the drum was
2 opened up, and the liquid was poured out onto the
3 ground, and the drum was retained by the driver.
4 Q. And this was poured into the landfill.
5 A. Yes.
6 Q. Did you watch that entire shipment
7 unload?
8 A. I don't recall.
9 MR. RANDOLPH: Let him finish his question.
10 THE WITNESS: I'm sorry.
11 BY MR. RODRIGUEZ:
12 Q. Did you see the entire shipment unload?
13 A. On that particular day, I don't remember
14 whether I stayed there for the whole truck or not.
15 I don't recall.
16 Q. But you recall seeing at least one drum
17 being --
18 A. Yes, I do, very vividly.
19 Q. Do you recall this vividly because it
20 surprised you?
21 A. Yes, because you didn't see that that
22 often.
23 Q. You didn't see what that often?
24 A. Someone dumping a drum out and retaining

1 the drum.
2 Q. The retaining of the drum was the
3 surprising part.
4 A. Just opening up the drum. Many times
5 the drums were just pushed off the truck and left,
6 but on this occasion the drum was emptied, the
7 cover put back on and it was retained on the
8 truck.
9 Q. That particular method, either dumping
10 the drum in the landfill or the pouring of the
11 liquid out of the drum, neither of those methods of
12 disposal were anything that National Disposal
13 prohibited, was it?
14 A. Not to the best of my knowledge.
15 Q. Well, you ran the landfill.
16 A. Yes.
17 Q. You didn't stop the Abbott truck from
18 unloading in that fashion.
19 A. No, I did not.
20 Q. Do you recall ever seeing any other
21 customer unload their drums in that fashion?
22 A. Yes, I did.
23 Q. Do you recall who that customer was?
24 A. To the best of my knowledge, it was

1 Century Disposal.

2 Q. Century unloaded in the same fashion by
3 opening the drum, pouring the liquid onto the
4 ground and retaining the drum.
5 A. That is correct.
6 Q. With respect to the Abbott truck, do you
7 recall what the liquid looked like?
8 MR. RANDOLPH: Just for the record, this was
9 all gone over yesterday. I don't know if you were
10 here. These had been asked at some length before,
11 but go ahead.
12 MR. RODRIGUEZ: Well, I'm talking specifically
13 about Abbott.
14 MR. RANDOLPH: I'm sorry. I thought you were
15 focusing back on Century. You're right. I'll
16 withdraw the objection.
17 BY THE WITNESS:
18 A. To the best of my recollection, it was a
19 darker-colored material. It flowed quite freely,
20 and it was just a liquid. I do not recall like any
21 sludge coming out with it. It was a liquid, a dark
22 liquid.
23 BY MR. RODRIGUEZ:
24 Q. Were you at the working face of the

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1 landfill when you saw this drum being emptied?
2 A. At that particular time, yes.
3 Q. Did you speak to anybody at that time?
4 A. I don't recall.
5 Q. Did you speak to anybody after that
6 about this particular incident?
7 A. I just can't remember that.
8 Q. Can you say whether this was a regular
9 occurrence, Abbott's open truck coming to the
10 landfill?
11 A. I don't remember the frequency of it,
12 sir.
13 Q. So you can't say whether it was a
14 regular occurrence or an irregular occurrence.
15 MR. RANDOLPH: Can you define what you mean by
16 "regular" for the witness?
17 MR. RODRIGUEZ: Whether it happened one time,
18 two times or whether this was something that
19 happened on a monthly basis.
20 BY THE WITNESS:
21 A. I don't know. I don't remember.
22 BY MR. RODRIGUEZ:
23 Q. Do you recall ever talking to Elmer
24 about this particular method of disposal?

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1 A. I don't recall a conversation.
2 Q. I take it you never spoke to any of the
3 drivers from Abbott about this particular method of
4 disposal.

5 A. I don't remember speaking to an Abbott
6 driver about that.
7 Q. Do you recall whether Abbott, even after
8 1969 now, ever was a BFI customer?
9 A. I don't remember. I just can't recall.
10 Q. You can't recall whether Abbott was a
11 customer of BFI after 1969 after BFI acquired all
12 these hauling businesses.
13 MR. RANDOLPH: I object to the form of the
14 question.
15 BY MR. RODRIGUEZ:
16 Q. I'm talking --
17 A. I don't remember this.
18 Q. Do you know whether anybody else ever
19 hauled for Abbott?
20 A. I don't know.
21 Q. Do you know if they were a T-K customer?
22 A. That I don't know.
23 Q. Do you know if any other independent
24 hauler ever hauled for Abbott?

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1 A. I don't know. I don't remember any.
2 Q. Mr. Van Prooyen, I think you told Mr.
3 Varick yesterday that you have spent a few days
4 over the last week preparing with certain attorneys
5 representing BFI and Mr. Randolph in preparation
6 for your deposition.
7 A. That is correct.
8 Q. During the course of those meetings with
9 those attorneys, were you shown anything or told
10 anything that helped you remember anything
11 specifically with respect to Abbott's use of the
12 landfill?
13 A. I don't recall anything specifically
14 about Abbott's.
15 Q. Abbott --
16 A. I don't remember that they refreshed my
17 memory on anything on Abbott's.
18 Q. Okay. So you weren't shown anything or
19 told anything that helped you remember any of the
20 specific items that you have talked about today in
21 terms of these events.
22 A. I did not see any documents in reference
23 to Abbott Laboratories.
24 Q. Were you told anything that helped you

1 remember any of your testimony that you have given
2 today?

3 A. Not in regard to Abbott that I can
4 remember.

5 MR. RODRIGUEZ: I don't think I have anything
6 further at this time.

7 EXAMINATION

8 BY MR. SEIDMAN:

9 Q. Mr. Van Prooyen, a little while ago you
10 mentioned a time study that you did, correct?

11 A. That is correct.

12 Q. Did you do this time study on one
13 occasion or more than one occasion?

14 A. On one occasion where I went through all
15 of our commercial accounts.

16 Q. Did you ride in the truck with the
17 driver when you did this time study?

18 A. Yes, I did.

19 Q. Who was the driver that you rode with?

20 A. At the time I did the time study it was
21 Marvin Powles.

22 Q. Was anyone else in the truck with you
23 and Mr. Powles?

24 A. No.

1 MR. RANDOLPH: Mr. Van Prooyen, I'm going to
2 go over some of the testimony that you have given
3 and see if I can maybe flesh out the record a
4 little bit. If I repeat myself, I certainly
5 apologize.

6 EXAMINATION

7 BY MR. RANDOLPH:

8 Q. Let's start with the waste from Abbott
9 Park. You testified that your job duties included
10 performing a survey of customers of National
11 Disposal during the period 1967 to '69.

12 Do you recall that testimony?

13 A. Yes.

14 Q. And that Abbott Park was one of the
15 facilities which you included within your survey.

16 A. Yes.

17 Q. Okay. Do you have a recollection as to
18 where the waste that was picked up by National
19 Disposal from the Abbott Park facility went to?

20 A. To the best of my knowledge, it went to
21 Yeoman Creek.

22 Q. Okay. Let me see if I can clear up
23 something in this context that you testified to
24 earlier.

1 Do you have any knowledge as to when the
2 Edwards Field portion of this landfill stopped
3 receiving waste and when the Yeoman Creek portion
4 began receiving waste?

5 A. No, I do not.

6 Q. Can you place that either in months or
7 years at any time?

8 A. It was a small site, and I don't presume
9 it went -- I couldn't answer that question.

10 Q. Okay. You weren't stationed at that
11 facility at the time that transition took place,
12 were you?

13 A. No, I was not.

14 Q. During your survey, which included
15 Abbott Park, do you recall seeing the type of waste
16 that was in at least some of the containers at the
17 Abbott Park facility?

18 A. Yes.

19 Q. Do you recall it included office waste?

20 A. Yes.

21 Q. What do you mean by office waste?

22 A. It could be paper, carbon paper, floor
23 sweepings, general office trash.

24 MR. RANDOLPH: Okay.

1 MR. RODRIGUEZ: Can you read back that
2 answer? I didn't get all of it.

3 MR. BECK: I don't think he was done.

4 BY MR. RANDOLPH:

5 Q. Were you finished before Mr. Rodriguez
6 interrupted you?

7 A. I don't recall all I listed any more,
8 but I would say it would be.

9 MR. RANDOLPH: Why don't you read him back
10 what he said, and I'll ask him if he wishes to
11 supplement his answer as he was continuing.

12 (WHEREUPON, the record was read
13 by the reporter as requested.)

14 BY MR. RANDOLPH:

15 Q. Anything else you wish to add within
16 your definition of office waste?

17 A. That would be basically it.

18 Q. Okay. Now, directing your attention to
19 the city of North Chicago and the contract that you
20 have identified as Exhibit 29 that was in place
21 with the city of North Chicago, Paragraph I.B.3. of
22 that contract at Page YC0665 makes reference to a
23 two times per year general cleanup.

24 Do you recall a provision in the

1 Q. Do you know the frequency of pickups
2 from the city yards --
3 A. No, I do not.
4 Q. -- of either the 20 yard open top
5 roll-off or the one or two yard smaller containers?
6 A. No. I know the 20 yard roll-off would
7 have been just whenever they called that it was
8 full.
9 Q. Do you recall the nature of the waste in
10 the 20 yard roll-off?
11 A. I cannot define that at this time. I
12 don't really remember.
13 Q. How about in the smaller container at
14 the city yards?
15 A. I really can't remember that either.
16 Q. You testified about the Century trucks
17 being able to hold 20 drums, do you recall that --
18 A. Yes.
19 Q. -- when filled to capacity.
20 A. I said approximately 20.
21 Q. Do you have any knowledge as to the
22 number of drums that would have fit on the Abbott
23 flat bed trucks when it brought drums to the site?
24 A. In my mind, they were both approximately

1 the same size.
2 Q. So the number would have been
3 approximately 20.
4 A. To the best of my knowledge.
5 Q. When you saw Abbott flat bed trucks
6 delivering drums to the site, do you recall on
7 occasion it being filled to capacity with drums?
8 A. I would say yes.
9 Q. You testified earlier about
10 participating in the survey regarding the Victory
11 Hospital and Saint Therese Hospital.
12 Do you recall that?
13 A. Yes.
14 Q. During that survey, at least at times,
15 would you get off the truck and actually look at
16 the pickups being made? Do you recall that
17 testimony?
18 A. Yes.
19 Q. Let's take them one at a time.
20 At Saint Therese do you ever recall
21 whether office waste, as you have described that
22 term, was included in the trash or rubbish from
23 Saint Therese Hospital?
24 MR. SEIDMAN: Objection. Asked and answered,

1 IN THE UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION
4 WAUKEGAN COMMUNITY SCHOOL)
5 DISTRICT NO. 60, et al.,)
6 Plaintiffs,)
7 v.)
8 ABBOTT LABORATORIES, et al.,)
9 Defendants.)
)Case No. 92 C 7592
)Judge Leinenweber
)Magistrate Judge Rosemond

10
11 August 17, 1993
12 9:30 a.m.
13

14 The deposition of OLE KIRKEGAARD resumed
15 pursuant to adjournment at Suite 6600, 233 South
16 Wacker Drive, Chicago, Illinois.
17
18
19
20
21
22
23
24

1 containers for Ace Hardware that you picked up?

2 A. Corrugated boxes flattened out. Some
3 was flattened out, some was not. In the boxes,
4 some of them was full of paint cans half empty,
5 some was full, some was empty. In the small
6 containers, 32-gallon cans, they had -- they were
7 full of office papers and envelopes and whatever
8 you call it.

9 Q. Okay. Where was the waste from Ace
10 Hardware taken to?

11 A. Yeoman Creek Landfill.

12 Q. When you say "Yeoman Creek," are you
13 referring to both Yeoman Creek and Edwards Field
14 Landfills together?

15 A. Yes.

16 Q. Okay. For shorthand purposes, when we
17 mention Yeoman Creek, unless you have a
18 differentiation, we will just assume it means both
19 of those landfills together.

20 A. Yes.

21 Q. Okay. Do you recall a company named
22 Chicago Rubber during the 1960s?

23 A. Yes.

24 Q. Do you recall where they were located

1 first of all?

2 A. On Market Street.

3 Q. During the 1960s, do you know which
4 waste haulers handled the waste for Chicago Rubber?

5 A. In the early sixties, I believe there's
6 a company by the name of John Sisson.

7 Q. That's S-i-s-s-o-n?

8 A. Yes.

9 Q. At some point in time did Waukegan
10 Disposal begin hauling waste for Chicago Rubber?

11 A. Yes.

12 Q. Do you recall when that was?

13 A. I believe in the late sixties.

14 Q. Do you recall which route it was on for
15 Waukegan Disposal?

16 A. Morning route, downtown route.

17 Q. In the late sixties, were you assigned
18 to the downtown route on a full-time or part-time
19 basis?

20 A. In the late sixties, off and on, yes.

21 Q. Off and on?

22 A. Yes.

23 Q. When you say "off and on," how
24 frequently would you have had responsibility for

1 hauling the downtown route during the late 1960s
2 generally?

3 A. I had it about a year at a time or so.

4 Q. Okay. Do you recall the physical layout
5 of the area in which garbage was picked up from
6 Chicago Rubber?
7 A. Yes.
8 Q. Could you describe that?
9 A. The building was located on the east
10 side of Market Street, and the area where we picked
11 up was on the south side of the building. On the
12 southeast corner of the building, there was an
13 overhead door which had to be opened each time we
14 got there. We rang the bell and the door would
15 open, and we backed the truck inside to a loading
16 dock.
17 (WHEREUPON, Mr. David E. Muschler
18 left the deposition proceedings.)
19 BY MR. RANDOLPH:
20 Q. What was the nature of the business
21 conducted at that location by Chicago Rubber? What
22 did they do there?
23 A. They made conveyor belts and that type
24 of things.

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1 Q. Did you personally haul the waste from
2 Chicago Rubber for Waukegan Disposal during the
3 1960s?
4 A. Yes.
5 Q. How many days per week did Waukegan
6 Disposal handle waste for Chicago Rubber?
7 A. Five days a week.
8 Q. Now, when you pulled up to this overhead
9 door on the south side of the building, what type
10 of containers were inside that door used by Chicago
11 Rubber for their waste?
12 A. They had about 10 to 15 dock containers.
13 Q. What size dock containers?
14 A. Yard and a half.
15 Q. Do you recall the type of waste that was
16 in the dock containers?
17 A. Yes. It was rubber pieces, powder, very
18 heavy stuff.
19 Q. Could you describe the powder any more
20 specifically? What did it look like?
21 A. Dark black powder.
22 Q. Was it loose in the dock containers?
23 A. Yes.
24 Q. Okay. Do you recall any other types of

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1 waste in the dock containers besides rubber pieces
2 and powder?
3 A. There was corrugated, office papers, and
4 once in a while there was some pieces of pallets,
5 wood pieces.
6 Q. Do you recall any liquid waste in the

7 containers?
8 A. Some of the containers they had had some
9 floor sweepings and some liquid in the bottom of
10 the containers, yes.
11 Q. Were the floor sweepings wet or dry?
12 A. It was moist, yes.
13 Q. Do you know what kind of liquid that
14 was?
15 A. Oily type of --
16 Q. It was oily?
17 A. Yes.
18 Q. Do you recall any smaller pails or
19 containers within the 1-1/2 yard dock containers
20 for Chicago Rubber?
21 A. Once in a while there was some
22 five-gallon pails and one-gallon pails.
23 Q. Do you recall whether there was anything
24 in those pails or were they empty?

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1 A. Once in a while there was some liquid in
2 some of the pails.
3 Q. Where was the waste from Chicago Rubber
4 taken?
5 A. To Yeoman Creek or Edwards Field.
6 Q. Do you recall that there was a Kresge
7 store in downtown Waukegan during the 1960s?
8 A. Yes.
9 Q. Where was that located?
10 A. On Genesee Street, south Genesee Street.
11 Q. Was that a retail operation, Kresge?
12 A. Yes.
13 Q. Do you recall who hauled waste for
14 Kresge at that location?
15 A. Waukegan Disposal Service.
16 Q. Do you recall whether this was
17 throughout the whole 1960s or a portion of the
18 sixties?
19 A. Through the whole sixties.
20 Q. Was Kresge in that downtown location
21 throughout the 1960s?
22 A. No. They were there early sixties, and
23 then later on they moved out of that location to a
24 new location.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION V

In Re the Matter of:

YEOMAN CREEK

)
)
)
)

The discovery deposition of CARL
BECH, taken in the above-entitled cause, before
Maria Miramontes, C.S.R., a Notary Public within
and for the County of Cook and State of Illinois
at 111 West Jackson Street, Third Floor,
Conference Room C, Chicago, Illinois, on October
25th, 1989, at the hour of 10:00 o'clock a.m.

BAKER, FENNELL & ASSOCIATES, INC.

318 W. RANDOLPH ST., SUITE 400
CHICAGO, ILLINOIS 60606
(312) 346-4179
OUTSIDE ILLINOIS CALL 1-800-443-7108

REPORTED BY: MARIA MIRAMONTES, CSR

1 Q When you say "dump truck," is that just an
2 open --

3 A Open truck, yeah.

4 Q Did you have any occasion to see what kind
5 of waste would have been in that open truck?

6 A Mostly construction debris.

7 Q Would that have included any barrels or
8 closed containers?

9 A No. To my knowledge, no.

10 Q Do you know what area -- Strike that.
11 Sisson Disposal, do you recall
12 them?

13 A Zizo?

14 Q I am sorry, Zizo -- No, Sisson.

15 A John Sisson?

16 Q Right.

17 A Yes.

18 Q Did they haul waste to the Yeoman Creek
19 Landfill?

20 A Yes.

21 Q Do you recall what type of vehicle they
22 used?

23 A He had a compactor garbage truck and an
24 open dump truck.

1 Q And do you have any knowledge as to what
2 kind of waste they may have hauled?

3 A They hauled from Chicago Rubber. And I
4 think he hauled from Fansteel in Glen Rock.

5 MR. BOICE: Which Fansteel?

6 THE WITNESS: The one on Glen Rock.

7 BY MR. HERSH:

8 Q Do you know what time period that was?

9 A I have no idea.

10 Q Did you have any opportunity to observe
11 that waste material whether it be at the landfill or
12 anywhere else?

13 A No.

14 Q Did you ever see their trucks at the
15 landfill?

16 A John Sisson's trucks?

17 Q Uh-huh.

18 A Yes.

19 Q Jensen Disposal you discussed earlier as a
20 company that brought waste material to the Yeoman
21 Creek Landfill. Do you know who -- what type truck
22 they utilized?

23 A They have a garbage truck, compacted.

24 Q They did not have a noncompacting truck?

STATE OF ILLINOIS)
) SS:
COUNTY OF LAKE)

AFFIDAVIT OF VERNON T. LADEWIG, JR.

I, Vernon T. Ladewig, Jr. having first been duly sworn upon oath, do hereby depose and state as follows:

1. I have personal knowledge of the facts set forth in this affidavit and would be competent to testify thereto.

2. I reside at 1341 Eastview Drive, Waukegan, Illinois 60085.

3. From 1964 to 1970 I was employed by the Waukegan Disposal Company. During 1968 through 1970 I worked for Waukegan Disposal Co. full time. Prior to that time, for about four years, I worked part-time. My duties included driving a garbage truck, picking up waste from commercial customers, and hauling the waste to whatever dump site Waukegan Disposal was using at the time. For the first month or so that I worked for Waukegan Disposal, we used the landfill that is now Edwards Field. When it filled up and closed we changed to the Yeoman Creek Landfill in Waukegan, Illinois for disposal. Sometime in 1969, Waukegan Disposal stopped using the Yeoman Creek Landfill.

4. Except where indicated otherwise in my testimony below, all customers' waste was picked up from one-yard dumpsters which the customers kept outside of their buildings. These dumpsters routinely contained a variety of materials including paper, metal, rags, wood -- basically all the wastes the customer generated except those disposed down a sewer.

handled these pick-ups. They were a customer during the entire time I worked for Waukegan Disposal.

20. Ace Hardware on Geresee sent barrels of broken glass, hardware, containers with liquid, packaging, etc. daily. We picked up approximately 8 barrels per day. They were a customer during the entire time I worked for Waukegan Disposal.

21. Chicago Rubber Co. on Market Street sent rubber pieces and shavings. We picked up one yard per week. They were a customer during the entire time I worked for Waukegan Disposal until their plant burned down about 1970.

22. F.K. Patterns & Foundry sent foundry sand and used molds. We picked up one yard twice per week. They were a customer during the entire time I worked for Waukegan Disposal.

23. Goelitz Candy on Morrow in North Chicago sent baled used sugar bags, once or twice per month.

24. Gordons Auto sent paper, sand, brake drums and grindings, brake shoes, etc. We picked up 2 dumpsters per week. They were a customer during the entire time I worked for Waukegan Disposal.

25. Larson & Peterson Paint was a customer. They were a customer during the entire time I worked for Waukegan Disposal.

26. Huron Cement (National Gypsum) at ^{Market} Marquet Street sent broken cement bags. We picked up at least one yard, three times per week. Huron would sometimes call for additional

ABF Freight
System Inc.

SUMMARY FOR ABF FREIGHT SYSTEM INC.

ABF Freight System Inc. ("ABF") operated a commercial freight hauling operation in the vicinity of Green Bay and Central Streets in Waukegan during the relevant time period. (Ole Kirkegaard 662) ABF also performed truck repairs at this facility. (Ole Kirkegaard 662)

Beginning in the mid-1960s, ABF was a customer of Waukegan Disposal. Ole Kirkegaard recalled picking up waste at this facility twice per week. Initially, ABF used a number of 55-gallon drums to handle its waste. Later it added two one-yard dock containers. (Ole Kirkegaard 663) Waukegan Disposal picked up two to four yards of waste per pickup. (Ole Kirkegaard 663)

ABF's waste consisted of corrugated cardboard boxes, floor sweepings, pallets, and oily liquid contained in the bottom of the waste containers. (Ole Kirkegaard 663-664) In addition, ABF occasionally disposed of truck tires and empty pint cans with residue fluids. (Ole Kirkegaard 663-664, 923)

All of the waste handled by Waukegan Disposal for ABF was delivered to the Edwards Field/Yeoman Creek landfills ("The Site").

In summary, ABF arranged for the disposal of at least a total of 208 cubic yards of waste per year at the Site from approximately 1964 to 1969. (Ole Kirkegaard 662-664)

The following issues should be addressed in the Allocation Counsel's investigation:

1. Determine when ABF began operating a Waukegan facility since it now contends that it did not operate any facility in the Waukegan area during the relevant time period.
2. Determine the components of ABF's waste stream during the relevant time period.
3. Determine the nature and volume of each component of ABF's waste stream during the relevant time period.

ABF Freight System
Inc.

Deposition Exerpts

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

WAUKEGAN COMMUNITY SCHOOL)
DISTRICT NO. 60, et al.,) V. IV
Plaintiffs,)
v.) Case No. 92 C 7592
ABBOTT LABORATORIES, et al.,) Judge Leinenweber
Defendants.) Magistrate Judge Rosemond

August 17, 1993
9:30 a.m.

The deposition of OLE KIRKEGAARD resumed
pursuant to adjournment at Suite 6600, 233 South
Wacker Drive, Chicago, Illinois.

1 A. I believe it was three times a week.
2 Q. Do you recall what type of containers
3 they kept their waste in?
4 A. They used a lot of those mail carrier
5 boxes with wheels on them they have. It's like
6 three-quarter of a cubic yard.
7 Q. Sort of a mail cart?
8 A. Yes.
9 Q. Were those made out of plastic or wood
10 or what were they made out of?
11 A. Material and steel frame.
12 Q. Any other type of containers?
13 A. I believe they had one yard dock
14 container, also.
15 Q. What type of waste did you pick up from
16 the post office?
17 A. Some corrugated, a lot of small pieces
18 of envelope papers and office papers and that type
19 of thing.
20 Q. Where was that waste delivered to?
21 A. Yeoman Creek.
22 Q. Do you recall a company called ABF
23 Freight located in Waukegan during that period?
24 A. Yes.

1 Q. Where were they located?
2 A. On the west side of the city west of
3 Green Bay Road and Central Avenue.
4 Q. Which side of Central Avenue?
5 A. The north side of Central Avenue.
6 Q. Do you recall who handled their waste?
7 A. Waukegan Disposal, yes.
8 Q. In what period of the sixties?
9 A. Mid-sixties.
10 Q. Did you personally get involved in the
11 handling of waste of ABF Freight?
12 A. Yes.
13 Q. What was the type of business they
14 conducted there?
15 A. That was a hauling company.
16 Q. Did they have any other type of facility
17 on the premises?
18 A. I believe they had workshop where they
19 repaired trucks and so forth.
20 Q. Okay. Do you recall what route this was
21 on for Waukegan Disposal?
22 A. That was on the Grand Avenue-Washington
23 Street route.
24 Q. Could you tell us physically the layout

1 of the area in which you picked up their waste?

2 A. The building was on the north side of
3 Central Avenue, and they had loading docks on the
4 south side.
5 Q. Were the loading docks elevated off the
6 ground?
7 A. Yes.
8 Q. How many times per week did you pick up
9 at ABF?
10 A. I believe it was couple times, twice a
11 week.
12 Q. What type of containers did they use?
13 A. They had 55-gallon drums, steel drums.
14 Q. Did they ever change the type of
15 containers?
16 A. And later on we put in a couple of one
17 yard dock containers.
18 Q. How many yards generally would you pick
19 up on a typical pickup at ABF Freight?
20 A. Anywhere from two to four yards every
21 pickup.
22 Q. Do you recall the nature of the waste
23 that you picked up at ABF?
24 A. Corrugated, floor sweepings, once in a

664

1 while a truck tire and some pallets.
2 Q. Any liquid waste or residue in their
3 containers?
4 A. Some of the 55s had some liquid in the
5 bottom of them.
6 Q. What kind of liquid was it?
7 A. Mixed with floor sweepings type of
8 thing, oil type of thing.
9 Q. Okay. Do you recall any engine or truck
10 parts being included in the waste at ABF Freight?
11 A. No.
12 Q. Where was their waste taken to?
13 A. Yeoman Creek Landfill.
14 Q. While we are talking about the Grand
15 Avenue route, just for the record, and we talked
16 about the downtown route, looking at Kirkegaard
17 Deposition Exhibit No. 1, what color is the
18 downtown route designated on that exhibit?
19 A. It's red, red colors.
20 Q. What color is the Grand
21 Avenue-Washington route?
22 A. You got the green here up to Green Bay
23 Road (indicating). Sometimes when the Belvidere
24 route was finished, when he was done with his

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

WAUKEGAN COMMUNITY SCHOOL)
DISTRICT NO. 60, et al.,) V.V.
Plaintiffs,)
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ABBOTT LABORATORIES, et al.,) Judge Leinenweber
Defendants.) Magistrate Judge Rosemond

August 18, 1993
9:30 a.m.

The deposition of OLE KIRKEGAARD resumed
pursuant to adjournment at Suite 6600, 233 South
Wacker Drive, Chicago, Illinois.

1 waste in the garbage at Edison Court?

2 A. Very little.

3 MR. KILROY: I don't have any other questions.

4 MR. RANDOLPH: Maybe we can take a short
5 break. We have been at it about an hour.

6 (WHEREUPON, a recess was had.)

7 MR. GREEN: Good morning, Mr. Kirkegaard. My
8 name is Bryan Green. I represent ABF Freight
9 Systems.

EXAMINATION

10 BY MR. GREEN:

11 Q. I believe on yesterday you indicated
12 that you personally picked up waste from the ABF
13 facility, is that correct?

14 A. Yes.

15 Q. You also indicated on yesterday, at
16 least I think that you indicated, that the ABF
17 facility was located on Central Avenue on the north
18 side of the street west of Green Bay Road, is that
19 correct?

20 A. Yes.

21 Q. Do you recall the exact address of that
22 facility?

23 A. The exact address?

1 Q. Yes.

2 A. No.

3 Q. Were there any other ABF facilities
4 serviced by Waukegan Disposal?

5 A. No.

6 Q. Okay. Could you describe for me as
7 precisely as you can the physical layout of the ABF
8 facility located on Central Avenue?

9 A. Okay. The building was on the north
10 side of the street. They had all the loading docks
11 on the south side of the building.

12 Q. So that was the part of the building
13 facing away from Central Avenue.

14 A. Yes.

15 Q. Okay. You indicated yesterday that that
16 ABF facility served as a -- well, ABF served as a
17 hauling company and that it included a workshop
18 which repaired trucks, among other things, is that
19 correct?

20 A. Yes.

21 Q. How did you come to know this
22 information?

23 A. Because of the way the trash looked when
24 we picked it up, I determined that was that type of

1 facilities.

2 Q. That it was a hauling company and that
3 it repaired trucks?
4 A. They had semi-trucks and trucks itself
5 at that location.
6 Q. Okay.
7 A. At all times.
8 Q. Okay. And you actually saw employees of
9 ABF repairing those trucks on occasion.
10 A. Yes.
11 Q. Okay. You indicated that the dock area
12 was on the south side of the building facing away
13 from Central Avenue.
14 Approximately how large was that dock
15 area?
16 A. Just about the whole length of the
17 building.
18 Q. Okay. Which was approximately?
19 A. I would say 150 feet, 200 feet.
20 Q. That was in length, correct?
21 A. Yes.
22 Q. What would you say was the width of that
23 dock area?
24 A. The width of the dock area I would say

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1 was about 20-some feet.
2 Q. Were the waste drums and containers at
3 that facility actually located on the dock?
4 A. Yes.
5 Q. Okay. Yesterday you indicated that the
6 facility was part of the Grand Avenue-Washington
7 Street route, is that correct?
8 A. Yes.
9 Q. By what color is this route identified
10 on the map? I believe you said earlier that it was
11 marked red and green, is that correct?
12 A. Yes.
13 Q. Okay. What year did you first begin
14 driving on this route? Do you recall the exact
15 year?
16 A. Mid-sixties.
17 Q. Okay. And the ABF facility was on the
18 route at this time when you first began driving
19 this route.
20 A. I don't know --
21 Q. Okay.
22 A. -- for sure.
23 Q. Do you recall when Waukegan Disposal
24 first began picking up waste from the ABF facility?

918

1 A. No.
2 Q. Okay. Do you recall what year Waukegan
3 Disposal discontinued service at the ABF facility?
4 A. No.

5 Q. Do you recall whether there was any
6 period of time during which Waukegan Disposal
7 temporarily discontinued service at the ABF
8 facility?
9 A. No.
10 Q. I believe you indicated on yesterday
11 that Waukegan Disposal picked up waste from the ABF
12 facility twice a week, is that correct?
13 A. I believe so, yes.
14 Q. Did those pickups occur on any
15 particular days of the week?
16 A. It was either Tuesday-Fridays or
17 Monday-Thursdays.
18 Q. What determined which days of the week
19 the pickups would take place? You indicated that
20 sometimes it was Mondays and Fridays and sometimes
21 Tuesdays and Thursdays.
22 MR. RANDOLPH: I don't think that's what he
23 said. He said it could be either one of those. He
24 didn't say it was sometimes each.

919

1 BY MR. GREEN:
2 Q. So was that the option of the driver?
3 A. That was the option of the route setup.
4 Some customers would have it twice a week, and they
5 get an option, either Monday-Thursday or
6 Tuesday-Friday. That's an option for each
7 customer.
8 Q. Okay. So it differed based upon the
9 customer.
10 A. Yes.
11 Q. What days did you pick up from the ABF
12 facility?
13 MR. RANDOLPH: Don't guess. If you remember.
14 BY THE WITNESS:
15 A. I don't recall.
16 BY MR. GREEN:
17 Q. Was there any period of time where the
18 frequency of service decreased at the ABF
19 facility? That is, was there a period of time
20 where you picked up waste from the facility less
21 frequently than twice a week?
22 A. I don't know.
23 Q. You indicated on yesterday that ABF
24 facility was initially -- well, that their waste

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1 was initially stored in 55 gallon steel drums, and
2 then I guess sometime in the mid-sixties Waukegan
3 Disposal replaced those drums with one cubic yard
4 dock containers, is that correct?
5 A. Yes.
6 Q. I think you also said that that took
7 place sometime in the mid-sixties.

8 Do you have an exact year on that?
9 A. I don't know.
10 Q. Okay. During the time period when the
11 55-gallon drums were used at the ABF facility, do
12 you recall how many drums of waste were picked up
13 there per day?
14 A. It could have been anywhere between
15 three to five drums.
16 Q. They were always full?
17 A. Yes.
18 Q. So that number did not change much from
19 week to week. It was --
20 A. No.
21 Q. Okay. When you picked up the waste, did
22 you also take the 55-gallon drums also or you just
23 emptied them into the truck, the waste into the
24 truck?

921

1 A. We emptied them into the truck.
2 Q. The drums or the waste?
3 A. The waste.
4 Q. Okay. You indicated on yesterday that,
5 I believe, approximately two to four cubic yards of
6 waste was picked up twice a week from the ABF
7 facility.
8 Was this during the time when the one
9 cubic yard dock containers were utilized at the ABF
10 facility?
11 A. Yes.
12 Q. Okay. So does that mean that there were
13 approximately four of those cubic yard containers
14 or were there more located --
15 A. No. No. They had drums plus the one
16 cubic yard. They used to have only drums, and then
17 they added a one cubic yard to it, and they still
18 had the drums with the pickups.
19 Q. Okay. So they never had more than one
20 one cubic yard container at the ABF facility.
21 A. Yes, they did.
22 Q. Okay. When did they increase the number
23 of cubic yard containers, do you recall?
24 A. Well, they had four to six drums in the

922

1 early stage, and then we added another one cubic
2 yard dock container.
3 Q. Okay.
4 A. But they remained to have those drums
5 full also at that time.
6 Q. Okay. So besides the three to five
7 drums that were located there -- well, did you
8 indicate how many drums were located at the ABF
9 facility? You indicated that you picked up waste
10 out of three to five drums.

11 How many were there in total?
12 A. I don't recall.
13 Q. Okay. Well, besides those drums, there
14 was one cubic yard container.
15 Were there any more cubic yard
16 containers located at the ABF facility?
17 A. No.
18 Q. What approximately was the dimensions of
19 that one cubic yard container?
20 MR. RANDOLPH: Just give him the best
21 recollection you have.
22 THE WITNESS: Can I look at this first
23 (indicating)?
24 MR. RANDOLPH: No. Just give him your best

923

1 recollection.
2 BY THE WITNESS:
3 A. Okay. It's about 48 inches tall, 33
4 inches in width and 40 some inches long.
5 BY MR. GREEN:
6 Q. Okay. You indicated on yesterday that
7 the waste or the nature of the waste picked up from
8 the ABF facility included corrugated materials,
9 floor sweepings, truck tires, wooden pallets and
10 occasionally liquids contained in 55-gallon drum
11 containers, is that correct?
12 A. Yes.
13 Q. Do you recall any other types of wastes
14 that were picked up from that facility?
15 A. Yes. Once in a while we had tires.
16 There was also small cans once in a while, pint
17 cans with fluid in them.
18 Q. Do you know what type of fluid was
19 located in those pint cans?
20 A. It could have either been --
21 MR. RANDOLPH: Don't guess. If you know.
22 BY THE WITNESS:
23 A. No, I don't.
24 BY MR. GREEN:

924

1 Q. Were there lids on these pint cans?
2 A. No.
3 Q. The 55-gallon drum containers that you
4 indicated contained liquids sometimes of an oily
5 nature, were these the same 55-gallon drums used to
6 store materials in generally?
7 A. Yes.
8 MR. RANDOLPH: You mean to store the waste
9 in?
10 MR. GREEN: Yes.
11 BY THE WITNESS:
12 A. Yes.
13 BY MR. GREEN:

14 Q. Okay. So when you emptied the contents
15 of the drums into the truck, that's when you
16 identified these liquids and noted that they were
17 of an oily nature.
18 A. Yes.
19 Q. Okay. What led you to believe that
20 these were oily-type substances? Was it based upon
21 your visual inspection, smell, feel?
22 A. The drums was oily inside, some of them,
23 greasy. You get grease on your gloves and stuff
24 like that.

925

1 Q. So it was based upon your visual
2 inspection, as well as your actual touching of
3 these liquids.
4 A. Yes.
5 Q. Okay. Without guessing, could you
6 indicate what percentage of those waste materials
7 typically consisted of corrugated materials?
8 MR. RANDOLPH: Just do it generally, if you
9 can.
10 (WHEREUPON, Mr. Patrick J. Kilroy,
11 left the deposition proceedings.)
12 BY THE WITNESS:
13 A. I would say about half of it was
14 corrugated and office papers and --
15 BY MR. GREEN:
16 Q. How about --
17 MR. RANDOLPH: Let him finish.
18 Go ahead. Were you finished?
19 THE WITNESS: Yes.
20 BY MR. GREEN:
21 Q. How about floor sweepings?
22 A. Maybe five percent.
23 Q. The truck tires?
24 A. 15, 20 percent.

926

1 Q. The pallets?
2 A. 15 percent.
3 Q. On occasion, when you identified liquids
4 in the 55-gallon drum containers, what percentage
5 of the waste would you say were liquids?
6 A. I would say about five percent.
7 Q. How often did you see liquids in the
8 bottom of these drums?
9 A. At least once a week.
10 Q. Were these liquids typically mixed with
11 the floor sweepings or --
12 A. Yes.
13 Q. Did you ever talk to anyone or come in
14 contact with any employees of ABF at the facility?
15 A. Yes.
16 (WHEREUPON, Ms. Christine Hansen

17 entered the deposition proceedings.)
18 BY MR. GREEN:
19 Q. Do you recall their names?
20 A. No.
21 Q. Do you recall if ABF Freight Systems was
22 a customer of BFI any time in the 1970s?
23 A. No.
24 Q. Were they ever a customer of BFI?

927

1 A. I don't know.
2 Q. I believe you indicated yesterday
3 that -- well, you indicated several times, I guess,
4 that some waste would go to Griess-Pfleger Tannery
5 versus Yeoman Creek. I believe this was associated
6 with a different route, but I just want to confirm
7 that.
8 Was that the downtown Waukegan route
9 that that situation occurred on or was it another
10 route?
11 A. No. That was the afternoon route.
12 Q. Okay. That was not the route that ABF
13 Freight Systems was located on.
14 A. No.
15 Q. Okay. Mr. Kirkegaard, I'd like to take
16 a minute to refer to a document which I believe was
17 identified as Exhibit No. 2 previously. It's a
18 facsimile transmission addressed to you at BFI,
19 Waukegan, from a Kevin Romine, BFI Corporate.
20 Included in this 11-page transmission is a
21 handwritten letter dated 7/5/89 marked as YC420.
22 I believe previously you indicated that
23 you did not recall during any time in 1989 actually
24 receiving or reviewing this document, is that

928

1 correct?
2 A. Yes.
3 Q. Do you recall, as you sit here today,
4 receiving and/or reviewing this document in 1989?
5 A. No.
6 Q. I'd like to ask you one question, I
7 guess, about this document. The first paragraph
8 indicates that -- well, it starts off saying:
9 "Ole, Enclosed is a list that I pulled from the
10 storage files there at the district."
11 I was wondering if you can tell me what
12 "there at the district" means or what it refers
13 to.
14 A. I don't know. I never wrote that
15 letter.
16 Q. Okay. I understand that you did not
17 write it. I guess Kevin Romine actually sent this
18 to you. I assume he's the author of the letter.
19 Yes, it is marked by his signature.

20 You have never come across the term
21 district in your work at BFI.
22 A. Yes.
23 Q. But there is no general meaning
24 associated with that term --

929

1 A. No.
2 Q. -- or word. Okay.
3 This transmission also includes a
4 Waukegan accounts customer list -- I believe it has
5 been previously referred to -- starting at page
6 marked YC422. Would you turn to that for a
7 moment? This list contains a number of Waukegan
8 Disposal accounts.
9 A. Yes.
10 Q. Do you have any knowledge why a customer
11 of Waukegan Disposal would not be included on this
12 list?
13 MR. RANDOLPH: Again, don't guess. If you
14 know.
15 BY THE WITNESS:
16 A. I don't know.
17 BY MR. GREEN:
18 Q. Do you know of anyone who could answer
19 that question?
20 A. No.
21 MR. GREEN: Mr. Kirkegaard, I have no
22 further --
23 MR. RANDOLPH: Excuse me.
24 MR. GREEN: Okay.

930

1 (WHEREUPON, discussion was had
2 off the record between the witness
3 and Mr. Randolph outside the
4 hearing of other counsel and the
5 court reporter.)
6 MR. RANDOLPH: Go ahead.
7 MR. GREEN: Mr. Kirkegaard, I have no further
8 questions today. However, my client is in the
9 process of reviewing corporate records that might
10 have a bearing on your testimony of yesterday so
11 I'd like to reserve the right to, perhaps, ask a
12 couple of follow-up questions on tomorrow, if time
13 permits.
14 Thank you.
15 MS. STEIN: Good morning, Mr. Kirkegaard. If
16 you recall, my name is Marta Stein. I represent
17 Stone Container Corporation. We were in the middle
18 of some questions about Stone Container, and I'd
19 like to resume them at this time.
20 EXAMINATION (Resumed)
21 BY MS. STEIN:
22 Q. You had indicated during the last time I

23 was asking you questions that you picked up from
24 Stone Container Corporation five times a week, is

Anchor Hocking Corp.

The Jeff Diver Group

environmental law

45 South Park Blvd., Suite 270
Glen Ellyn, IL 60137-6203
(708) 790-0001
(708) 790-1653 (fax)

October 17, 1994

Mr. Richard Boice
United States Environmental Protection Agency
Mail Code HSRL-6J
77 West Jackson Boulevard
Chicago, Illinois 60604

Dear Mr. Boice:

It was a pleasure speaking with you on October 13, 1994. On behalf of the Yeoman Creek Steering Committee, I have enclosed copies of Illinois Supplemental Permits for waste generated by Pfanstiehl Laboratories, Inc. and Anchor Hocking Corporation between 1975 and 1978. (App-1-App-13).

It has come to the attention of the Yeoman Creek Steering Committee that the United States Environmental Protection Agency is continuing its investigation of the Yeoman Creek Site, and as recently as September 30, 1994, sent out CERCLA §104(e) requests. The Committee recommends that Pfanstiehl Laboratories, Inc. and Anchor Hocking Corporation be added to this investigation effort. Pfanstiehl Laboratories was located at 1219 Glen Rock Ave, Waukegan, Illinois throughout the time period relevant to Site, and its waste was hauled, at least in part, by John Sisson and T-K Disposal to the Yeoman Creek Site. Anchor Hocking Corporation was located at 1955 Delaney Road, Gurnee, Illinois during the relevant time period, and its waste was hauled, at least in part, by National Disposal Service to the Yeoman Creek Site.

Please do not hesitate to contact me if you have any questions.

Sincerely,



Jennifer J. Sackett

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CHEMICAL WASTE MANAGEMENT

March 4, 1975

IN REPLY REFER TO: 03121001
COOK COUNTY - Land Pollution Control
Northfield/Lake Landfill
Permit No. 1974-11-OP
Supplemental Permit No. 75-53

Waste Management of Illinois, Inc.
P. O. Box 563
Palos Heights, Illinois 60463

Gentlemen:

Supplemental permit is hereby granted to Waste Management of Illinois to accept 1500 gallons/month of water soluble oil, generated by Anchor-Hocking Glass Company, Garner, Illinois all in accordance with the plans prepared by Peter G. Miller, Waste Management, dated February 14, 1975 and received by the Agency on February 18, 1975. This supplemental permit is further subject to the following special condition:

This permit shall expire one year from the date of issuance, subject to renewal, upon prior Agency approval.

Except as modified in the above documents, the site shall be operated in accordance with the terms and conditions of Permit No. 1974-11-OP dated August 13, 1974.

Very truly yours,

ENVIRONMENTAL PROTECTION AGENCY

C. E. Clark
C. E. Clark, Manager
Permit Section
Division of Land Pollution Control

TEC:ds
cc's/-Region 2
-File
-William Ketter



Illinois Environmental Protection Agency
Division of Land Pollution Control
Permit Section
2200 Churchill Road
Springfield, Illinois 62706

PERMIT ISSUED
FOR AGENCY USE

Received 5-15-75
Issued 5-19-75
Expires 5-19-76
Permit No. 75-001
Approved CHK

Application for a Supplemental Permit for the Disposal of Special and/or Hazardous Wastes
at an IEPA Permitted Solid Waste Management Site

I. GENERAL INFORMATION

A. Name of Applicant WASTE MANAGEMENT OF ILLINOIS, INC.
Address P. O. Box 563, Palos Heights, IL 60463
Telephone 312/821-8100 Laboratory 891-1500

B. Name of SWM Site Cook Northfield Twp. Lake Landfill
(County) (City or Township) (Site)
I.E.P.A. Operation Permit No. 74-11-0P
Site Inventory No. 03121001

C. Name of Special Waste Generator Anchor-Hocking
Address Gurnee, IL
Telephone 312/744-1000

D. Name of Special Waste Hauler Rowe Oil Service
Address Waukegan, IL
Telephone 312/DE6-3945

II. CHARACTERISTICS OF WASTE

A. Quantity 6000 gallons per year (2000 gal 3x per year)
(cubic yards or gallons) (CONFIDENTIAL INFORMATION)
for "continuing waste"
(one time, week, month, etc.)

B. Quality

1. Name of Waste water and oil

2. Name the process and/or type of industry producing the waste Class
manufacturer

3. An analysis of the chemical and physical characteristics of the waste
must be determined by a qualified lab and be attached to this application.
Does the special waste contain any hazardous chemicals? No

4. All hazards (health, safety, and/or fire) and/or nuisance problems
associated with the waste must be designated and necessary safety and
handling precautions delineated. Specify available communications and
assistance in case of emergency or fire.

Trained safety personnel

Stationary and mobile telephones



Illinois Environmental Protection Agency
Division of Land Pollution Control
Permit Section
2200 Churchill Road
Springfield, Illinois 62706

FOR AGENCY USE

Received 4-12-76
Issued 4-17-76
Expires 4-17-77
Permit No. 76-201
Approved M.W. Rapp

Application for a Supplemental Permit for the Disposal of Special and/or Hazardous Wastes
at an IEPA Permitted Solid Waste Management Site

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it is specifically furnished without the
prior written consent of

I. GENERAL INFORMATION

- A. Name of Applicant WASTE MANAGEMENT OF ILLINOIS, INC.
Address P. O. Box 563, Palos Heights, IL 60463
Telephone 312/821-8100 Laboratory 891-1500
- B. Name of SWM Site Cook Northfield Township Lake Landfill
(County) (City or Township) (Site)
I.E.P.A. Operation Permit No. 74-11-0P
Site Inventory No. 03121001
- C. Name of Special Waste Hauler Rowe Oil Service
Address 1419 N. Jackson, Waukegan, IL 60085
Telephone 312/DE 6-3945
*See note page 2
- D. Name of Special Waste Generator* Anchor Hocking Glass Co.
Address 1955 Delaney Rd., Gurnee, IL 60031
Telephone 312/244-1000
*Optional. A record of the Waste Generators shall be maintained by the haulers
and available to this Agency upon request.

II. CHARACTERISTICS OF WASTE

- A. Quantity 1500 gals. per Month
(cubic yards or gallons) (day, week, month, etc.)
for "continuing waste"
(one time, week, month, etc.)

RECEIVED

APR 12 1976

ILL. E.P.A. - D.L.P.C.
STATE OF ILLINOIS

- B. Quality
- Name of Waste Water soluble oil
 - Name the process and/or type of industry producing the waste Prod. -
Glass Containers Indicate SIC Classification 3221
 - An analysis of the chemical and physical characteristics of the waste
must be determined by a qualified lab and be attached to this application.
Does the special waste contain any hazardous chemicals? No
 - All hazards (health, safety, and/or fire) and/or nuisance problems
associated with the waste must be designated and necessary safety and
handling precautions delineated. Specify available communications and
assistance in case of emergency or fire.
Trained safety personnel
Mobile and stationary telephones

FOR AGENCY AND APPLICANT INFORMATION

III. DISPOSAL METHOD

- A. Quantity of dry refuse (uncompacted) deposited at the solid waste disposal site during the last full month. Verification may be required.

Quantity 334,074 February, 1976
(cubic yards) (month/year)

B. Disposal Method

1. Describe the proposed onsite waste handling and disposal procedures, including methods and/or devices for incorporation of the waste into the landfill.

Sanitary Landfill Techniques

2. Indicate what alternates, beside land disposal, exist for the treatment and/or disposal of the subject waste.

3. Describe available waste storage facilities.

None for landfill disposal

4. Describe wet weather disposal procedures.

During wet weather the ratio of liquid to solid waste is carefully maintained.

5. Describe the location of the disposal area. Indicate the trench(es) and/or areas where the waste will be deposited. If the location cannot be clearly identified, a 8½"x11" map of the area should be provided.

Coordinates 5200N - 5400N

2200E - 4600E

IV. SIGNATURE OF APPLICANT

I hereby request to accept the subject wastes, and by my signature, I affirm that the information in this application is to the best of my knowledge and belief, true, complete and accurate, and I agree to comply with the requirements specified in this application.

Signature of Applicant *Michael Thomas* Date 4/9/76

Attest: *Edith Kelling* Date 4/9/76

SIGNATURE OF ENGINEER

I hereby certify that the subject waste and the proposed disposal procedures are compatible with the geological setting and engineered features of the site.

Signature of Engineer _____ Reg. No. _____

Address _____ Telephone _____

NOTE: Renewal request - Permit #75-53

Code L038 Source ANCHOR-HOCKING GLASS COMPANYDate 2/6/75 Address Garner, Illinois

Sample Description (e.g., color, odor, phases, solids, visc., packaging) _____

Water Soluble Oil

Test - ✓ as required	As Received (Shake)	Filtrate	Solids from sample	Leachate from solids
Sp. Gr.	0.9777			
pH				
Acidity, % as				
Alkalinity, % as				
COD, mg/l				
BOD, mg/l				
Total solids, @ 105C	94.5%			
Suspended solids				
Chlorides	0.6701%			
Flash point, F	210°F			
Heating value, BTU/lb	10030			
Ash, on ignition	0.0801%			
acid scrub", gNaOH/g	0.0325			
Viscosity, cps				
Metals on Ash	- omitted - ash < 1%			
Arsenic, ppb				
Barium				
Cadmium				
Chromium, total				
Chromium, hexavalent				
Copper				
Iron				
Lead				
Mercury, ppb				
Nickel				
Selenium				
Silver				
Zinc				
Chlorides				
Cyanides				
Phenols				
Sulfides				
Fluorides				

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CHEMICAL WASTE MANAGEMENT

Hours 1.0Analyst MSDate Completed 2/10/75
- App-13 -

SUMMARY FOR ANCHOR HOCKING CORPORATION

Anchor Hocking Corporation ("Anchor Hocking") began operating a glass manufacturing facility at 1955 Delaney Road, Gurnee, Illinois, in August, 1966. In 1983, Anchor Hocking Corporation sold this plant to Anchor Glass Container Corporation ("AGCC"). AGCC is still operating the plant at this location.

From August, 1966 through 1969, Anchor Hocking was a customer of National Disposal Corporation. Two different drivers, Bud Iverson and Marvin Powles, handled this account on behalf of National Disposal. (Powles 43-44)

Anchor Hocking utilized five to ten one-yard dock containers at this facility. (Powles 114) On a typical day, seven to eight of these containers would be filled with waste. (Powles 115) Anchor Hocking was a five-day per week customer of National Disposal. (Powles 44)

The waste disposed of by Anchor Hocking consisted primarily of office waste and scrap glass. (Powles 118) Office waste typically consisted of carbon paper, different types of paper, paper clips, staples, cigarette butts, newspapers, soft drink cans and bottles. (Peder Kirkegaard 563-564; Powles 241-242)

In addition, Mr. Powles recalled that Anchor Hocking would occasionally load pallets of defective Coca Cola® bottles directly onto the National Disposal truck. (Powles 126-127) He testified that these Coca Cola® bottles were labeled with white paint. (Powles 350)

Mr. Powles further indicated that the load at Anchor Hocking typically filled up the 17-yard Leach Packmaster 3 truck which handled this account.

In summary, Anchor Hocking arranged for the disposal of at least a total of 1,820 cubic yards of waste per year at the Site from approximately 1966 to 1969. (Marvin Powles 44, 114-115)

The following issues should be addressed in the Allocation Counsel's investigation:

1. Determine the components of Anchor Hocking's waste stream during the relevant time period.
2. Determine the nature and volume of each component in Anchor Hocking's waste stream during the relevant time period.

Anchor Hocking Corp

Deposition Excerpts

1 IN THE UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION
4 WAUKEGAN COMMUNITY SCHOOL)
5 DISTRICT NO. 60, et al.,)
6 Plaintiffs,) VOLUME I
7 v.) Case No. 92 C 7592
8 ABBOTT LABORATORIES, et al.) Judge Leinenweber
9 Defendants.) Magistrate Judge Rosemond
10
11

12 The deposition of MARVIN LEROY POWLES,
13 SR., called as a witness herein for examination,
14 taken pursuant to the Federal Rules of Civil
15 Procedure of the United States District Courts
16 pertaining to the taking of depositions, taken
17 before MELANIE JAKUS, a Notary Public within and
18 for the County of DuPage, State of Illinois, and a
19 Certified Shorthand Reporter of said state, at
20 Suite 7200, 233 South Wacker Drive, Chicago,
21 Illinois, on the 28th day of September, A.D. 1993,
22 at 9:40 a.m.
23
24

1 MR. RANDOLPH: Are you asking during the time
2 '63 to '65 when he wasn't on the commercial route?
3 MR. ZAPINSKI: Yes.
4 MR. RANDOLPH: If you know, go ahead.
5 BY THE WITNESS:
6 A. Apartment buildings and some industrial.
7 BY MR. ZAPINSKI:
8 Q. Do you know what industrial businesses
9 were part of this commercial route, again, in the
10 '63 to '65 time frame?
11 A. Anchor Hocking, Goodyear. There's one
12 other one. It slipped my mind right now.
13 Q. Well, if you think of it during the
14 course of my questioning, you can just go ahead and
15 let me know, please.
16 MR. FOGELBERG: What was the first name? I
17 didn't get that.
18 MR. RANDOLPH: Anchor Hocking.
19 BY MR. ZAPINSKI:
20 Q. During the time period that you were
21 working as a helper, who drove the commercial
22 route?
23 A. Charles Iverson.
24 Q. Did he have a helper as well?

1 A. No.
2 Q. Did he do it for the entire two, two and
3 a half years that you worked as a helper?
4 A. Yes.
5 Q. Did he visit the same customers every
6 day?
7 MR. RANDOLPH: If you know what he did every
8 day.
9 BY THE WITNESS:
10 A. He picked up Goodyear and Anchor
11 Hocking.
12 BY MR. ZAPINSKI:
13 Q. But would he visit those same places
14 five days a week?
15 A. Yes.
16 Q. So was that commercial route essentially
17 the same route each day of the week five days a
18 week?
19 A. No. The other things that he picked
20 up -- the routes are different each day, different
21 stops.
22 Q. Meaning he picked up different apartment
23 buildings, for example --
24 A. Correct.

1 Q. -- on different days.
2 Now, after you were employed as a
3 helper, following that time period, you said you
4 were promoted to driver.
5 A. Yes.
6 Q. How long were you a driver for National
7 Disposal?
8 A. Two years.
9 (WHEREUPON, discussion was had
10 off the record between the witness
11 and Mr. Randolph outside the
12 hearing of other counsel and the
13 court reporter.)
14 BY THE WITNESS:
15 A. You mean was I just a residential route
16 driver while I drove in the city of Waukegan?
17 BY MR. ZAPINSKI:
18 Q. Well, that was my question.
19 The two years that you just testified
20 to, is that two years as a driver on the
21 residential routes?
22 A. Yes.
23 Q. So that would be approximately from '65
24 to '67 you were employed as a driver on the

1 Q. During that time frame, what did the
2 Waukegan district encompass?

3 A. Basically all the residential in
4 Waukegan.

5 Q. Did the boundaries of the district
6 extend beyond the city limits of the city of
7 Waukegan?

8 A. Yes.

9 Q. What else was included, other than just
10 the city of Waukegan?

11 A. You are talking about residential?

12 Q. I'm talking about the entire Waukegan
13 district, to the extent that you know what was
14 encompassed by the Waukegan district, again
15 limiting to the time frame your first four to four
16 and a half years while you were employed by
17 National Disposal.

18 A. City of North Chicago and basically
19 everything else was there, except for Anchor or
20 Goodyear.

21 Q. Now, is it fair to say that the
22 operation of the Yeoman Creek Landfill was also
23 part of the job responsibilities of the Waukegan
24 district?

1 A. Yes.

2 Q. So even when you were primarily employed
3 as a driver on the residential routes, you became
4 familiar with the commercial route.

5 A. Yes.

6 Q. During that time frame, what companies
7 do you recall picking up waste from on the
8 commercial route?

9 A. Anchor Hocking, Goodyear and just small
10 businesses and apartment buildings.

11 Q. You say you were employed two years as a
12 driver on residential routes.

13 What happened after those two years?

14 A. Then I was promoted to foreman of the
15 Wilmette district.

16 Q. Where was your office located after that
17 promotion?

18 A. In Glenview.

19 Q. Pardon.

20 A. Glenview.

21 Q. Do you recall the street address?

22 A. No, I don't.

23 MR. RANDOLPH: Excuse me one second.

24 (WHEREUPON, discussion was had

1 A. Not really. I had heard of it.
 2 Q. Do you know what their trucks looked
 3 like back in the 1960s?
 4 A. No.
 5 Q. You mentioned a number of specific
 6 companies that you picked up waste from on the
 7 commercial route. I'd like to go back and explore
 8 in a little greater detail those companies. The
 9 first one you mentioned was Anchor Hocking.
 10 A. Yes.
 11 Q. Where were they located?
 12 A. Delany Road in Gurnee.
 13 Q. Again, all my questions will refer to
 14 the time period when you were employed in the
 15 Waukegan district.
 16 A. Right.
 17 Q. How often did you make a pickup at the
 18 Anchor Hocking location?
 19 A. Usually once a day.
 20 Q. You said "usually."
 21 Was it sometimes more than once a day?
 22 A. No, but sometimes they just didn't need
 23 service. Not very often.
 24 Q. What kind of facility did Anchor Hocking

1 have where you picked up waste?
 2 A. They made Coca-Cola bottles and
 3 mayonnaise jars.
 4 Q. How would you describe the location
 5 where you actually picked up the waste at Anchor
 6 Hocking?
 7 A. I guess I'd say there was five overhead
 8 docks, and I backed up to the southeast door.
 9 Q. Was the waste receptacle located inside
 10 or outside of the building?
 11 A. Inside.
 12 Q. What type of receptacle was it?
 13 A. Dock containers.
 14 Q. Pardon.
 15 A. One yard dock containers.
 16 Q. How many of them were there at Anchor
 17 Hocking?
 18 A. I don't know.
 19 Q. But there were more than one?
 20 A. Yes.
 21 Q. Were there more than five?
 22 A. Yes.
 23 Q. More than ten?
 24 A. That might be getting pretty close to

1 it.
 2 Q. Generally speaking, how many of these --

3 and I will just use the number ten, but I want you
4 to understand I know that you are not testifying it
5 was exactly ten.
6 A. Yes.
7 Q. Of these containers, how many of them
8 generally were filled with waste when you came to
9 pick up?
10 A. Maybe seven or eight.
11 Q. And then would the remaining ones have
12 some waste in them but not be completely filled?
13 A. No.
14 Q. They would be empty?
15 A. Yes.
16 Q. Were there occasions when all ten of
17 them would be filled or the entire number?
18 A. I don't know. Don't remember.
19 Q. Were the yard containers supplied by
20 National Disposal for Anchor Hocking?
21 A. Yes.
22 MR. RANDOLPH: He said they were dock
23 containers.
24 MR. RODRIGUEZ: He called them one yard

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1 containers.
2 MR. RANDOLPH: Yard. Okay. That's what you
3 meant.
4 MR. ZAPINSKI: Yes.
5 BY MR. ZAPINSKI:
6 Q. I'm sorry. I didn't catch the answer.
7 A. Yes.
8 Q. Did they have the name of the company on
9 them?
10 A. Not the mayonnaise jars.
11 Q. No. I'm talking about the containers
12 for the waste.
13 A. Oh, yes.
14 Q. Did they have National Disposal's name
15 on them?
16 A. Yes.
17 Q. When you were making pickups at Anchor
18 Hocking, what was the name of the individual or
19 individuals with whom you had primary contact for
20 picking up this waste?
21 A. I don't remember his name.
22 Q. Was there one particular person that you
23 primarily dealt with at Anchor Hocking?
24 A. Yes. Yes.

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1 Q. Did you have a set time when you would
2 make a pickup at Anchor Hocking every day?
3 A. It wasn't absolutely set, but I always
4 tried to make it at the same time so they knew I
5 was coming.

6 Q. What time of the day was that?
7 A. Usually about 10:00 o'clock.
8 Q. Was that before or after you made your
9 first trip to the landfill to dump your waste?
10 A. That was after.
11 Q. How many stops between your first trip
12 to the landfill and Anchor Hocking did you make in
13 a typical day, stops for purposes of pickups just
14 to clarify?
15 A. Yes. Probably 50 or 60.
16 MR. RANDOLPH: He is asking between the time
17 you dumped and the time you got back to Anchor
18 Hocking. When you take the first dump and then you
19 come back to Anchor Hocking, how many would you
20 make between the landfill and the time you got to
21 Anchor Hocking? That's badly put.
22 MR. ZAPINSKI: It's on the record though.
23 MR. RANDOLPH: Forever and ever.
24 Go ahead.

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1 THE WITNESS: How many what?
2 MR. RANDOLPH: How many stops did you make
3 from the time you unloaded your first load of
4 garbage on your way back to Anchor Hocking? How
5 many customers did you stop at on the way out to
6 Anchor Hocking from the landfill?
7 THE WITNESS: I didn't.
8 MR. RANDOLPH: Okay.
9 BY MR. ZAPINSKI:
10 Q. So then typically your trip would be
11 empty when you got to Anchor Hocking.
12 A. Yes.
13 Q. What type of waste did you pick up at
14 Anchor Hocking?
15 A. Glass and office papers.
16 Q. Did you ever pick up any liquid waste
17 there?
18 A. No.
19 Q. Did you have to check in at a gate
20 before you came to the dock when you arrived at the
21 Anchor Hocking plant?
22 A. Yes.
23 Q. With whom did you leave your ticket for
24 the pickup, the person at the gate or this other

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1 person that you spoke about?
2 A. The dock foreman.
3 Q. And that's the individual whose name you
4 can't remember?
5 A. Right.
6 Q. After you went to Anchor Hocking, what
7 would your next stop be?
8 A. Goodyear.

9 Q. Where was Goodyear located?
10 A. On 41 south of Buckley Road in North
11 Chicago.
12 Q. What kind of facility did Goodyear have
13 at that location?
14 A. They made hose.
15 Q. What part of the plant would you go to
16 to pick up waste?
17 A. That would be the south end of the
18 plant.
19 Q. Would you describe that area for me?
20 A. It had one door and the rest of it on
21 that end of the plant was glass.
22 Q. Was the waste for pickup stored inside
23 or outside?
24 A. Inside.

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1 Q. What type of containers was the waste
2 contained in?
3 A. One yard ground containers.
4 Q. Ground containers?
5 A. Yes.
6 Q. Is that similar or different from the
7 type that were at Anchor Hocking?
8 A. No. The dock container you dump off of
9 a dock. Ground container you pick up off the
10 ground.
11 Q. Okay. How many containers did Goodyear
12 have?
13 A. Approximately 40.
14 Q. Were those supplied by National
15 Disposal?
16 A. Yes.
17 Q. Well, of those 40 containers on a
18 typical day, how many were filled with waste for
19 you to empty into your truck?
20 A. Anywhere from 25 to 30.
21 Q. On some occasions were all 40 of them
22 filled?
23 A. No.
24 Q. What kind of waste did you pick up at

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1 Goodyear?
2 A. Rubber hose, office materials, brass
3 fittings and led.
4 Q. What form was the led that you picked
5 up?
6 A. Small strips.
7 Q. Were those located in the containers?
8 A. No.
9 Q. Where were those located?
10 A. In 55-gallon drums.
11 Q. Again, on a typical day, how many

12 55-gallon drums of these led strips would you pick
13 up?
14 A. I would pick up one drum probably every
15 other week.
16 Q. Is that because the drum was not filled
17 every time that you came there?
18 A. Right. Yes.
19 Q. Did you just empty the drum into your
20 truck or did you take the entire drum with its
21 contents when you picked it up?
22 A. I took the entire drum, winched it into
23 my hopper on the truck and took it home and sold
24 it.

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1 Q. What did you sell?
2 A. The led.
3 Q. What about the 55-gallon drum?
4 A. I don't remember.
5 Q. Were there any other types of wastes
6 that you picked up at Goodyear?
7 A. Cafeteria waste.
8 Q. Would that be located in the yard
9 containers?
10 A. Yes.
11 Q. Other than these 40 or so yard
12 containers and the 55-gallon drum, were there other
13 containers from which you took waste when you
14 picked up waste at Goodyear?
15 A. The brass.
16 Q. What kind of container was that located
17 in?
18 A. That was in small cardboard drums.
19 Q. Cardboard drums did you say?
20 A. Yes.
21 Q. How many of these cardboard drums would
22 there be on a typical day?
23 A. I'd get them maybe once a month.
24 Q. How many drums once a month?

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1 A. One.
2 Q. Did you take the entire drum with its
3 contents and load it into your truck or did you
4 dump the drum into your truck?
5 A. No, I didn't dump the drum into the
6 truck.
7 Q. Are there any other types of wastes or
8 types of containers from Goodyear that you recall?
9 A. No.
10 Q. The rubber hose that you referred to,
11 was that in the yard containers?
12 A. Most of the time, yes.
13 Q. When it wasn't, what type of container
14 was it in?

15 A. It was on skids.
16 Q. Did you take the entire skid with its
17 contents?
18 A. No. Just forklift -- I would have
19 picked up the skid, and we slid the hose all in the
20 hopper.
21 Q. Now, with regard to the led, where did
22 you take it prior to selling it?
23 A. To my house.
24 Q. How did you keep it separate from the

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1 other waste in the truck?
2 A. Because there's no other waste in the
3 hopper. I left the winch on the drum so it
4 wouldn't turn over, tip over.
5 Q. Did you ever dump any of the drums of
6 led -- did you ever unload any of those at Yeoman
7 Creek Landfill?
8 A. No.
9 Q. Do you know if any other drivers on the
10 commercial route unloaded drums of led at Yeoman
11 Creek Landfill?
12 A. No.
13 Q. No, you don't know or no, they didn't?
14 A. No. As far as I know, they didn't.
15 Q. Do you know what the other drivers did
16 with the led from Goodyear?
17 A. I knew the guy in Goodyear that filled
18 these drums and if I went on vacation he didn't
19 bring it out.
20 Q. What about before you were the driver on
21 the commercial route? Do you know what happened
22 with these drums of led?
23 A. No, I don't.
24 Q. Who was the person or persons at

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1 Goodyear with whom you mainly dealt when you went
2 to pick up waste?
3 A. I was trying to remember his name the
4 other day, and I can't remember his name either.
5 Q. Throughout the few years that you were
6 the truck driver on the commercial route at
7 National Disposal, was there only one person at
8 Goodyear with whom you had primary contact?
9 A. Yes.
10 Q. Going back to Anchor Hocking, other than
11 the yard containers, were there other containers in
12 which you collected waste?
13 A. No.
14 MR. RANDOLPH: You mean other containers which
15 were used to dispose of waste onto the truck?
16 MR. ZAPINSKI: Right.
17 MR. RANDOLPH: Because "collecting waste," he

18 didn't really collect waste.
19 Do you understand the question?
20 THE WITNESS: No.
21 MR. RANDOLPH: Why don't you reask the
22 question?
23 BY MR. ZAPINSKI:
24 Q. Okay. You have already testified about

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1 waste that you picked up from Anchor Hocking out of
2 the one-yard containers.
3 Were there other types of containers in
4 which Anchor Hocking disposed of waste that you
5 loaded onto your truck when you were making a
6 pickup at Anchor Hocking?
7 A. No.
8 (WHEREUPON, discussion was had
9 off the record between the witness
10 and Mr. Randolph outside the
11 hearing of other counsel and the
12 court reporter.)
13 BY THE WITNESS:
14 A. Yes. They had pallets of Coca-Cola
15 bottles.
16 BY MR. ZAPINSKI:
17 Q. This was at Anchor Hocking?
18 A. At Anchor Hocking. They would pick it
19 up with the forklift, and we would throw the cases
20 of bottles in the back of the truck.
21 Q. What volume of waste from Anchor Hocking
22 would be these pallets of Coca-Cola bottles?
23 A. It would --
24 Q. Let me reask that.

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1 On a typical day, how many pallets of
2 Coca-Cola bottles would you have?
3 A. Maybe every other day one.
4 Q. How many times did you visit Goodyear
5 during the day in order to pick up waste?
6 A. Once.
7 Q. What time did you usually get to
8 Goodyear?
9 A. Noon.
10 Q. After you picked up at Goodyear, where
11 would your next stop be?
12 A. That was the last stop.
13 Q. So then you would return -- well, what
14 would you do then?
15 A. What would I do after what?
16 Q. After picking up at Goodyear.
17 A. I'd go back to the landfill.
18 Q. In terms of the yardage ticket that was
19 filled out for Goodyear, is that something that you
20 would give to this person whose name you can't

21 remember presently?

22 A. Yes.

23 Q. So after your first trip to the landfill

24 on a typical day on the commercial route, you would

1 IN THE UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION
4 WAUKEGAN COMMUNITY SCHOOL)
5 DISTRICT NO. 60, et al.,)
6 Plaintiffs,) VOLUME II
7 v.) Case No. 92 C 7592
8 ABBOTT LABORATORIES, et al.) Judge Leinenweber
9 Defendants.) Magistrate Judge Rosemond
10
11
12 September 29, 1993
13 9:40 a.m.
14
15 The deposition of MARVIN LEROY POWLES,
16 SR. resumed pursuant to adjournment at Suite 7200,
17 233 South Wacker Drive, Chicago, Illinois.
18
19
20
21
22
23
24

1 BY MR. RODRIGUEZ:

- 2 Q. Was the container at the fire department
3 emptied by a mechanical device?
4 A. Yes.
5 Q. Did you have occasion to see the
6 contents of these containers either before or while
7 they were being emptied?
8 A. Yes.
9 Q. What was in the container?
10 A. Office material and the firemen ate --
11 there wasn't like -- it wasn't like out of a
12 cafeteria. It was just paper bags and wrappings
13 and things like that.
14 Q. Paper bags and wrappings. Plastic bags?
15 A. Food wrappings.
16 Q. Plastic bags, things of that nature?
17 A. I don't remember any plastic bags.
18 Q. But you do recall seeing food
19 wrappings.
20 A. Yes.
21 Q. What did they look like?
22 A. It would be like something you would
23 wrap your sandwich in like a McDonald's hamburger.
24 Q. You also said "office material."

- 1 What do you mean by that?
2 A. I guess they had reports of things they
3 made out and some thrown away.
4 Q. Papers?
5 A. Papers, yes.
6 Q. Pens?
7 Q. And so your testimony yesterday about
8 Dexter applies as well to what you recall about
9 Midland.
10 A. Correct.
11 Q. Okay. So you do not recall ever picking
12 up waste at a company known as Midland.
13 A. No.
14 Q. I think you also testified about U.S.
15 Steel.
16 A. Yes.
17 Q. Is U.S. Steel the same as American
18 Steel & Wire?
19 A. I would not know that.
20 Q. Do you recall ever picking up waste at a
21 location known as American Steel & Wire?
22 A. No.
23 Q. Are you familiar with a company or
24 location known as American Steel & Wire?
A. No.
Q. Did you have any involvement in the BFI
merger or combination with National Disposal in the
early 1970s?

1 MR. RANDOLPH: Is now or was during the
2 sixties?

3 MR. ZAPINSKI: Was during the sixties.
4 BY THE WITNESS:

5 A. No. I really don't know where it was at
6 during the sixties.

7 BY MR. ZAPINSKI:

8 Q. Do you recall picking up any waste at
9 American Hospital Supply Corporation during your
10 period of employment with National Disposal?

11 A. No. I never personally ever picked any
12 up.

13 Q. Do you know if anybody at National
14 Disposal picked up waste from American Hospital
15 Supply Corporation?

16 A. If anybody, it would have been Charles
17 Iverson.

18 Q. Do you know if Mr. Iverson ever picked
19 up any waste there?

20 A. No, I do not.

21 Q. You have already testified about Anchor
22 Hocking. My question to you is whether reading
23 this line in Exhibit No. 30 helps you to remember
24 anything further about when you picked up waste at

1 Anchor Hocking, other than what you have already
2 testified about.

3 A. I do not remember taking any pallets
4 because they always sold their pallets. They would
5 bring the glass, rejected glass on the pallets, and
6 we threw it in the truck off the pallet.

7 Q. Do you remember anything further about
8 picking up waste at Anchor Hocking when you were
9 employed by National Disposal?

10 MR. RANDOLPH: Other than what you already
11 testified to yesterday.

12 BY THE WITNESS:

13 A. No.

14 BY MR. ZAPINSKI:

15 Q. The same question with regard to
16 Goodyear Tire & Rubber, whether reading this line
17 in this document, Exhibit No. 30, helps you to
18 remember anything further, other than what you have
19 already testified to about picking up waste from
20 Goodyear Tire & Rubber.

21 A. No.

22 Q. With regard to J.C. Penney, does
23 reviewing this portion of Exhibit No. 30 help you
24 to remember whether you picked up any waste at J.C.

1 A. Yes.
2 Q. What is that?
3 A. Many of the trucks in the sixties were
4 nothing more or less than basically a dump truck.
5 You raise the tailgate, then you raise the body
6 up. On a push-out, you raise the tailgate up, you
7 push a hydraulic lever and then a blade inside
8 pushes all the garbage out. You don't dump it.
9 Q. Is this also a truck that has some type
10 of a compactor so that, as you put garbage in, a
11 blade pushes the garbage in?
12 A. Correct.
13 Q. I believe you indicated yesterday that
14 before your last trip to the Yeoman Creek Landfill
15 you would pick up at Anchor Hocking and one other
16 company.
17 You can either tell me the name or I'll
18 find the name.
19 MR. RANDOLPH: Do you understand the
20 question?
21 MR. SEIDMAN: Goodyear. Excuse me. I'll try
22 again.
23 BY MR. SEIDMAN:
24 Q. I believe you indicated yesterday in the

1 afternoon you only made a stop at Anchor Hocking
2 and Goodyear before you would go back to the Yeoman
3 Creek Landfill for the last time, correct?
4 A. No. I went to Anchor Hocking, got a
5 load there, went back to the Yeoman Creek
6 Landfill. Then I went to Goodyear, then I went to
7 Yeoman Creek. I could not get both factories in
8 one load.
9 Q. Okay. Was Anchor Hocking a load all by
10 itself or was anybody else's refuse in with the
11 Anchor Hocking?
12 A. All by itself.
13 Q. And the Goodyear was all by itself,
14 their refuse?
15 A. Correct.
16 Q. Would either the Anchor Hocking load or
17 the Goodyear load completely fill up the truck you
18 were driving?
19 A. Each one of them would, yes.
20 Q. Okay. And then, if I understand your
21 testimony correctly, all of the other stops that
22 you would have made prior to Anchor Hocking and
23 Goodyear would have comprised one load?
24 A. Correct.

1 Q. Would all of those stops in that one
2 load completely fill up the truck you were driving?

3 A. Most of the time. Sometimes not.
4 Q. How do you know when the truck is
5 totally filled?
6 A. The blade stops, won't put any more
7 garbage in.
8 Q. Did you drive this same truck during the
9 entire time that you were a driver for National
10 Disposal?
11 A. No.
12 Q. Okay. At what point in time did the
13 truck change?
14 A. Did I change trucks or did the truck
15 change?
16 Q. Let me try this another way.
17 At some point you became a driver after
18 having been a helper, correct?
19 A. Yes.
20 Q. Okay. When you first became a driver at
21 National Disposal, were you driving the 17 yard
22 leach push-out truck?
23 A. No.
24 Q. Okay. What truck were you driving when

1 Q. What did he tell you?

2 A. It was in -- hypodermic needles in a
3 plastic bag, and he picked it up to swing it off
4 the dock into the truck, and one of the hypodermic
5 needles stuck him in the leg.

6 Q. Was that while he was employed as a
7 National driver?

8 A. Yes. He was on commercial route.

9 Q. Okay. Do you recall whether the waste
10 from U.S. Steel also included office waste or
11 office papers that you picked up at U.S. Steel?

12 A. No, I don't.

13 Q. You testified there were types of
14 bottles that you picked up at Anchor Hocking.

15 Do you know if those bottles had any
16 markings, product names on them?

17 A. Coca-Cola bottles did.

18 Q. What kind of markings did they have?

19 A. I believe it was like the white --
20 something similar to a white paint.

21 Q. Right on the bottles?

22 A. Right on the bottle.

23 Q. Do you recall whether any waste from
24 Ocean Spray ever went to the Yeoman Creek Landfill?

1 IN THE UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION
4 WAUKEGAN COMMUNITY SCHOOL)
5 DISTRICT NO. 60, et al.,)
6 Plaintiffs,) VOLUME III
7 v.) Case No. 92 C 7592
8 ABBOTT LABORATORIES, et al.) Judge Leinenweber
9 Defendants.) Magistrate Judge Rosemond

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October 21, 1993
9:40 a.m.

The deposition of PEDER KIRKEGAARD
resumed pursuant to adjournment at The Marc Plaza
Hotel, 509 West Wisconsin Avenue, Milwaukee,
Wisconsin.

1 half full or some empty and some bags and some
2 cafeteria waste and material like such.
3 Q. Okay. When you say "corrugated drums,"
4 what size drum are you talking about?
5 A. Approximately 30 gallon.
6 Q. Would those have contained the same
7 type, generally, of waste that was contained in the
8 six-yard container at Coral Chemical?
9 A. Yes. It was because the container
10 outside were full so there was additional material.
11 Q. Did that waste at Coral Chemical also
12 include office waste?
13 A. Yes, it did.
14 Q. Did the waste at United States Envelope
15 also include office waste?
16 A. Yes, it did.
17 Q. In using the term "office waste," Mr.
18 Kirkegaard, do you remember that there was a number
19 of types of items that would be included within
20 that category?
21 A. Yes, that could be a mixture of like
22 even carbon paper and all kinds of different types
23 of paper, paper clips, staples and so on.
24 Q. Did that include such things as

1 cigarette butts?
2 A. Yes.
3 Q. Newspapers.
4 A. And newspapers.
5 Q. Soft drink cans and bottles.
6 A. Yes.
7 Q. And you talked about papers.
8 Are you talking about papers with
9 printing and lines on them?
10 A. That would be paper with printings on
11 it.
12 Q. Do you recall an incident regarding a
13 Christmas tree catching on fire relating to Coral
14 Chemical?
15 A. Yes, I do.
16 Q. Could you tell us what happened?
17 A. We had just picked up Coral Chemical and
18 went into Country Club Apartments. It was right
19 after Christmas, and they always put their
20 Christmas trees out. We put -- I don't remember if
21 it was one or two Christmas trees in the hopper and
22 packed it. All of a sudden almost like an
23 explosion started, and we just made it to dump the
24 truck. It was very, very hot fire.

Bearing Headquarters Co.

SUMMARY FOR BEARING HEADQUARTERS COMPANY

During the relevant time period, Bearing Headquarters Company ("Bearing") was a distributor of replacement machine bearings and power transmission equipment to various manufacturers. (Ex. 1)

Waukegan Disposal handled Bearing's waste disposal during the mid to late 1960s. (Ole Kirkegaard 742). Bearing used approximately two 55-gallon corrugated fiber drums for waste disposal. (Ole Kirkegaard 742-43)

Bearing's waste consisted of office waste and steel bands. (Ole Kirkegaard 743). All of the Bearing waste was delivered to the Edwards Field/Yeoman Creek landfills ("The Site") for disposal. (Ole Kirkegaard 744).

In summary, Bearing arranged for the disposal of at least a total of 57 cubic yards of waste at the Site per year from approximately 1964 to 1969. (Ole Kirkegaard 742-744)

The following issues should be addressed in the Allocation Counsel's investigation:

1. Determine the components of Bearing's waste stream during the relevant time period.
2. Determine the nature and volume of each component in Bearing's waste stream during the relevant time period.

ROBERT W. SINGER
ATTORNEY AND COUNSELOR
SUITE 1500
300 WEST WASHINGTON STREET
CHICAGO, ILLINOIS 60606

(312) 641-3257

April 30, 1993

Mr. Donald A. Lane
KEATING, MUETHING & KLEKAMP
Attorneys at Law
1800 Provident Tower
One East Fourth Street
P.O. Box 1800
Cincinnati, Ohio 45202

Re: Waukegan Community School District No. 60, et al.
vs. Abbott Laboratories, et al.
Case No. 92 C 7592 (Yeoman Creek Landfill)

Dear Mr. Lane:

The following is a response to the questions raised in your letter of April 15th, 1993 concerning Bearing Headquarters Company:

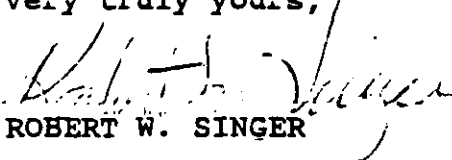
1. Bearing Headquarters still conducts business at 215 Greenwood Avenue, Waukegan, Illinois;
2. Bearing Headquarters is a distributor for various manufacturers of replacement machine bearings and power transmission equipment and for the entire period, it has been in the business of selling replacement bearing and power transmission equipment from the premises, all of which are pre-packaged by the manufacturers and are sold in the packages that are received at Bearing Headquarters Company;
3. A search has been made of all of the company records at Bearing Headquarters Company in Waukegan and also at its office in Broadview, Illinois;
4. The company's policy is to keep all documents for a period of five years at which time they are then destroyed.

Mr. Donald A. Lane
April 23rd, 1993 - page two.

At the Waukegan office, the policy is to keep the documents for three years and the accounting records are kept in the Broadview office for five years.

I trust that the foregoing answers your questions. If you need any additional information, please feel free to contact me.

Very truly yours,



ROBERT W. SINGER

RWS:ybs

cc: Mr. Frank Volpentesta

Bearing Headquarters Co.
Deposition Exerpts

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

WAUKEGAN COMMUNITY SCHOOL)
DISTRICT NO. 60, et al.,) V. IV
Plaintiffs,)
v.) Case No. 92 C 7592
ABBOTT LABORATORIES, et al.,) Judge Leinenweber
Defendants.) Magistrate Judge Rosemond

August 17, 1993
9:30 a.m.

The deposition of OLE KIRKEGAARD resumed
pursuant to adjournment at Suite 6600, 233 South
Wacker Drive, Chicago, Illinois.

1 A. Yeoman Creek Landfill.
2 Q. Do you recall a company called Bearing?
3 A. Yes.
4 Q. Where were they located?
5 A. On Greenwood Avenue, too.
6 Q. Whereabouts on Greenwood?
7 A. About a block west of Compacted Metal.
8 Q. Who hauled their waste?
9 A. Waukegan Disposal Service.
10 Q. During what period of time?
11 A. In the sixties.
12 Q. Do you recall what part?
13 A. Mid-sixties and late sixties.
14 Q. Mid to late sixties?
15 A. Mid to late sixties, yes.
16 Q. What route was that?
17 A. The north route.
18 Q. Could you describe the area in which you
19 picked up the waste?
20 A. Yes. The building was on the outside of
21 the road. They had a door in the front on the
22 north side of the building and we backed up to that
23 door. That was ground level pickup. They had a
24 couple of 55 gallon corrugated drums.

1 Q. Fiber drums?
2 A. Fiber drums, yes.
3 Q. How many times did you pick that account
4 up?
5 A. I believe that was either once or twice.
6 Q. Was the waste stored inside or outside
7 the building?
8 A. That was stored inside.
9 Q. So did you have to go inside the door to
10 pick up the drums?
11 A. Yes.
12 Q. Did you have to get permission to do
13 that?
14 A. Mostly when we got there during the day
15 the door was open already.
16 Q. Okay. Do you recall the type of
17 business that Bearing ran out of that location?
18 A. No.
19 Q. Could you describe the waste that you
20 recall from that location?
21 A. Corrugated, office papers and steel
22 bands and that type of thing.
23 Q. Do you recall any liquid waste at that
24 location?

1 A. No.
2 Q. Any other type of containers other than

3 the 55 gallon fiber drums?
4 A. No.
5 Q. Where was that waste delivered?
6 A. Yeoman Creek.
7 Q. Did Waukegan Disposal also haul waste
8 for Illinois National Guard?
9 A. Yes.
10 Q. What type of a facility was that?
11 A. I don't know if that was recruiting or
12 what. I don't believe so. At that location they
13 had the office for the National Guard.
14 Q. Where was it located?
15 A. On Glen Flora.
16 Q. Glen Flora close to what?
17 A. Glen Flora and about one block east of
18 Lewis Avenue.
19 Q. What route was that on for Waukegan
20 Disposal?
21 A. That was on the north route.
22 Q. During what period of time did Waukegan
23 Disposal haul waste for Illinois National Guard?
24 A. In the late sixties.

Coral International Inc.

SUMMARY FOR CORAL INTERNATIONAL INC.

Coral International Inc. ("Coral") is a specialty chemical manufacturing company, which has operated a facility at 135 LeBaron Street in Waukegan since November, 1962. (Ex. 1--Answer to Interrogatory No. 6).

Coral has acknowledged in its discovery responses that Waukegan Disposal Service was its "customary waste hauler" during the relevant period. (Ex. 1--Answer to Interrogatory No. 3(h)) While Coral admitted that it utilizes a "variety" of hazardous substances in its manufacturing processes, it did not identify the nature or volume of these hazardous substances. (Ex. 1--Answer to Interrogatory No. 3) Coral claimed that it did not dispose of any hazardous substances "except by normal disposal of empty drums, bags and containers which might contain trace amounts of a hazardous material." (Ex. 1--Answer to Interrogatory No. 3(e)) The testimony of a number of drivers from Waukegan Disposal makes it abundantly clear that Coral disposed of significantly greater volumes of hazardous substances than "trace amounts."

During the relevant time period, Coral was a daily customer of Waukegan Disposal. (Ole Kirkegaard 587) Coral Chemical utilized a six-yard open top container for its waste, along with 10 to 15 fibre drums. (Ole Kirkegaard 581, 583, 585, 587; Peder Kirkegaard 316, 562-63)

Coral's waste consisted primarily of paper bags and fibre drums containing various amounts of waste powders. There was also a substantial volume of loose liquid waste in the bottom of Coral's six-yard container. (Ole Kirkegaard 588; Peder Kirkegaard 325) Both Kirkegaards recalled unpleasant encounters with this liquid waste.

Ole Kirkegaard recalled that when he came in contact with this liquid, it was "itchy on his skin." (Ole Kirkegaard 591) Peder Kirkegaard's encounter with this liquid was more traumatic. On one occasion, this liquid waste dripped on Mr. Kirkegaard's head while he was emptying Coral's container into his truck. Within a few minutes, Mr. Kirkegaard felt a burning sensation on his head. Later he discovered that this material had pierced his skin, burning a large hole in his scalp. (Peder Kirkegaard 116, 326-328)

Both Peder Kirkegaard and Vernon Ladewig, another Waukegan Disposal driver, recalled that Coral's waste often caused fires in the Waukegan Disposal garbage trucks. Mr. Kirkegaard specifically recalled an incident in which a very hot fire started in the Waukegan Disposal truck when a Christmas tree was dumped on top of the Coral waste materials. (Peder Kirkegaard 564-565) As a result, Mr. Kirkegaard was forced to dump the contents of his truck on the ground to put out the fire. (Peder Kirkegaard 564-565)

Mr. Kirkegaard also recalled that Coral materials caused fires on the Waukegan truck on two or three occasions when Richard Engstrom was the driver. (Peder Kirkegaard 334) Mr. Kirkegaard's testimony was corroborated by Vern Ladewig who testified that Coral's waste "frequently caught fire in the truck until they switched to roll-off containers." (Ladewig affidavit. at ¶ 15)

Coral also arranged for Waukegan Disposal to make special pickups at least once or twice per month. (Peder Kirkegaard 322; Ole Kirkegaard 586) On these occasions, Coral loaded a number of corrugated and metal drums on Waukegan Disposal's dump truck for disposal at the Edwards Field/Yeoman Creek landfills ("The Site"). While some of these drums were empty, many of them were full of material. (Peder Kirkegaard 322-323; Ole Kirkegaard 586)

The striking similarities between Ole Kirkegaard's and Peder Kirkegaard's testimony concerning their experiences at Coral is especially compelling in light of the fact that these two individuals have not spoken to each other for at least 15 years.

In Summary, Coral International arranged for the disposal of at least a total of 1,560 cubic yards of waste per year at the Site from approximately 1964 to 1969. (Peder Kirkegaard 319, Ole Kirkegaard 585). Additionally, Coral disposed of approximately 2,600 barrels of waste per year from approximately 1964 - 1969 (Ole Kirkegaard 585).

The following questions should be addressed by the allocation counsel relating to Coral International Inc.:

1. Determine the nature and volume of the contents in the drums picked up by Waukegan Disposal from Coral once or twice per month.
2. Determine the nature and volume of the residue powder materials in the bags and drums which were picked up by Waukegan Disposal on a daily basis.
3. Determine the nature and volume of the loose liquid waste in the bottom of the six-yard container utilized by Coral.
4. Determine the nature and volume of all hazardous substances utilized by Coral in its manufacturing processes during the relevant time period.

5. Require Coral to account for all by-products and waste products resulting from its manufacturing processes during the relevant time period.

156594.1

WAUKEGAN COMMUNITY SCHOOL)
DISTRICT NO. 60, CITY OF)
WAUKEGAN, OUTBOARD MARINE)
CORPORATION, BROWNING-FERRIS)
INDUSTRIES OF ILLINOIS, INC.,)
THE DEXTER CORPORATION, and THE)
GOODYEAR TIRE & RUBBER COMPANY,)
)
Plaintiffs,)
v.)
)
ABBOTT LABORATORIES, ET AL.,)
)
Defendants.)

No. 92 C 7592

Hon. Harry D. Leinenweber

Magistrate Thomas W.
Rosemond, Jr.

Joe Schueneman
46 Breners Street
Jackson, KY 41339

Robert Sheridan
Sheridan Management
2424 Washington Street, Suite 211
Waukegan, IL 60085
(312) 336-1211

2. Identify all Persons, including Defendant's employees or former employees, known or suspected to have knowledge or information about the use, acquisition, generation, storage, treatment, transportation, disposal or other handling of Waste Materials by Defendant, Defendant's contractors or by prior or subsequent owners and operators of Defendant's Facility or Facilities.

ANSWER:

John Schueneman
Coral International
135 LeBaron Street
Waukegan, IL 60085
(312) 336-8100

Richard Pearson
Coral International
135 LeBaron Street
Waukegan, IL 60085
(312) 336-8100

Joe Schueneman
46 Breners Street
Jackson, KY 41339

Robert Sheridan
Sheridan Management
2424 Washington Street
Suite 211
Waukegan, IL 60085

Robert Taylor
Address Unknown

Raymond Long
Address Unknown

David Schleicher
2721 Westwood Avenue
Waukegan, IL 60085

Paul Sanders
(possibly deceased)
Address Unknown

Jesse Bossick
(possibly deceased)
Address Unknown

Bill Reid
(possibly deceased)
Address Unknown

3. Did Defendant use, acquire, generate, store, treat, transport, dispose or otherwise handle any Hazardous Materials at or to its Facility or Facilities during the relevant time period?

(a) the common name, chemical name, chemical composition, characteristics, physical state (e.g., solid, liquid) of that Hazardous Material, providing copies of any Documents used or consulted in making such determination (e.g., MSDSs, Supplier Specification Sheets);

(b) whether any tests or analyses were performed on that Hazardous Material and the results of such tests or analyses, providing any available Documentation of those results;

(c) the Person(s) who supplied Defendant with that Hazardous Material;

(d) the time period(s) during which that Hazardous Material was used or otherwise handled by Defendant;

(e) where that Hazardous Material was disposed of by Defendant, providing a complete list of the sites at which Defendant disposed, or arranged for the disposal, of such Materials.

(f) the quantity of that Hazardous Material disposed of by Defendant on a monthly basis during the time period(s) listed for that Material in response to subpart (e);

(g) the type(s) of container(s) in which that Hazardous Material, in any form or concentration, was disposed and all markings or labels on such containers; and

(h) the Person(s) who transported that Hazardous Material, in any form or concentration, to the disposal site(s) listed in response to subpart (f).

ANSWER:

Coral objects to interrogatory no. 3(a)-(h) for the reasons that (i) responding to the interrogatory is oppressive and unduly burdensome; (ii) it requests information which is not in the control of Coral since Coral did not dispose of any Hazardous Materials and (iii) it requires Coral to speculate regarding the knowledge or information possessed by other individuals and entities. Without waiving said objections, Coral states that in its manufacturing operations it utilizes a variety of materials some of which are classified as Hazardous Materials. In its operations, Coral combines, blends and mixes these materials into a variety of products responsive to specific requests and requirements of its customers. In its operations Coral does not dispose of Hazardous Materials but does sell products to its customers which at times contain

Hazardous Materials. With regard to the specific subparagraphs of this interrogatory, Coral states the following:

(a), (c) and (d). Information responsive to these subparts, to the extent available, is provided in the documents being made available to Plaintiffs' First Set of Requests for Production of Documents.

(b). Tests are routinely run on specific products to determine whether the product is meeting the requirements and specifications of the customer. Documents pertaining to these tests are retained for a short period of time. No documents have been retained for the time period of these interrogatories. No other tests involving Hazardous Materials are performed.

(e). Other than through sale of products to its customers, Coral does not dispose of Hazardous Materials except by normal disposal of empty drums, bags and containers which might contain trace amounts of a Hazardous Material. This disposal is done by Coral's waste hauler which, for the period involved, was Waukegan Disposal.

(f). Unknown and impossible to determine but customarily no more than trace amounts in disposed drums, bags and containers as set forth in (e) above.

(g). Drums, bags and other containers that the Hazardous Material was supplied as set forth in (e) above.

(h). Waukegan Disposal was the customary waste hauler for Coral during this period.

4. Did Defendant, or anyone on Defendant's behalf, arrange for the disposal or treatment, or arrange for the transportation for disposal or treatment, of Waste Materials to the Yeoman Creek/Edwards' Field Site? If you answered in the affirmative, identify:

(a) every date on which such disposal took place;

(b) for each Transaction, the nature of each Waste Material, including the chemical content, characteristics, physical state (e.g., solid, liquid);

(c) the owner(s) of each Waste Material so accepted or transported;

(d) the quantity of each Waste Material involved (weight or volume) in each Transaction and the total quantity for all Transactions;

(e) all tests, analyses, and analytical results concerning each Waste Material;

(f) the Person(s) who selected the Site as the place to which each Waste Material was to be transported;

(g) the amount paid in connection with each Transaction, the Persons making such payment(s) and the Person(s) receiving such payment(s);

(h) what was actually done to each Waste Material once it was brought to the Site; and

(i) the type(s) and number of container(s) in which each Waste Material was contained when it was accepted for transport and all markings on such containers.

ANSWER:

Coral did not dispose of any Hazardous Materials at the Yeoman Creek/Edwards' Field Site. Also, see response to interrogatory 3(e), above.

5. On what dates did you operate at the Facility or Facilities?

ANSWER:

Coral moved to the site at 135 LeBaron Street in the Spring of 1961 and began operations in approximately November, 1962. Coral has continued its operation at the site without interruption to date.

6. Identify the prior and subsequent operators of the Facility or Facilities.

ANSWER:

There were no prior operators of the Facility and Coral is not aware of the prior operators, if any, at the site. Coral Chemical has, since November 1962, operated at the site without interruption to date.

7. Are you a corporation, partnership or sole proprietor?

ANSWER:

Coral is a corporation.

8. Identify all insurance which may be deemed to cover environmental claims relating to the Facility or Facilities from 1955 to the present by setting forth:

(a) the name and address of the company that issued the policy or policies;

(b) the identifying number of the policy or policies;

(c) the commencement and expiration dates of the policy or policies;

(d) the type of insurance coverage (e.g., liability); and

(e) the amount of policy coverage on a yearly basis, including the amount of any excess coverage.

ANSWER:

1955-1978 unknown to Coral. However, Coral dealt with Ross Merritt Insurance (address unknown) and Carl E. Mellen & Co., 601

Greenwood Avenue, Waukegan, IL, 60087, during this time period.

1/1/76-1/1/79	U.S. Fidelity & Guaranty (USF&G)	SMP 593530
1/1/79-1/1/82	USF&G \$100,000-300,000	SMP 654663
1/1/79-1/1/80	USF&G \$2,000,000	CEP 109769
1/1/80-1/1/81	USF&G \$2,000,000	CEP 122722
1/1/81-1/1/82	USF&G \$3,000,000	CEP 019914598
1/1/82-4/11/83	USF&G	SMP 533348
1/1/82-12/31/82	USF&G	CEP 019914598
1/1/83-4/11/83	USF&G	CEP 020063780
4/11/83-4/11/84	Mutual Fire, Marine & Inland Insurance \$500,000.	GA 31257
4/11/83-4/11/84	Integrity Insurance Company \$3,000,000.	ISX 11436
1/1/84-1/1/85	Mutual Fire, Marine & Inland \$500,000.	GA 31344
1/1/84-1/1/85	Integrity \$3,000,00	ISX 113218
12/31/84-12/31/85	Mutual Fire, Marine & Inland \$500,000.	GA 32631
12/31/84-4/29/85	Integrity \$3,000,000.	ISX 116284
12/31/85-12/31/86	Genstar Indemnity Company \$1,000,000.	NSG 100499
12/31/86-12/31/87	Illinois Insurance Exchange \$1,000.00.	DOL 08855
12/31/87-1/20/88	Commercial Union Insurance Co. \$1,000,000.	CWD 48744

1/20/88-4/1/88	National Union Fire Insurance	GL 590-07-95RA
4/1/88-4/1/89	National Union \$1,000,000.	GL 590-07-96RA
4/1/89-4/1/90	Home Insurance Co. \$1,000,000.	GLR-F382249

Respectfully submitted,
CORAL INTERNATIONAL, INC.

By:


One of its attorneys

David E. Muschler (02004100)
Lawrence, Kamin, Saunders
& Uhlenhop
208 South LaSalle Street
Suite 1750
Chicago, IL 60604-1188
(312) 372-1947

JAD/JP:Yeoman:A:&C:AYeoman

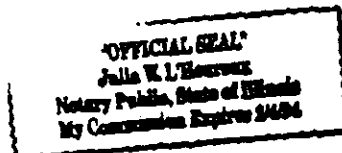
VERIFICATION

JOHN E. SCHUENEMAN, being first duly sworn upon oath, deposes and states that he is President of Coral International, Inc.; that he has personal knowledge of the factual matters set forth in Coral International Inc.'s Answers to Plaintiff's First Set of Interrogatories and that the same are true to the best of his knowledge.


JOHN E. SCHUENEMAN

SUBSCRIBED AND SWORN to
before me this 27th
day of May, 1993.


NOTARY PUBLIC



jed/roonan/schuet

CERTIFICATE OF SERVICE

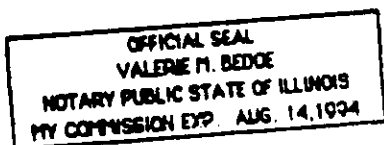
I, the undersigned, a non attorney, on oath state that I caused a copy of Coral International, Inc.'s Answers to Plaintiff's First Set of Interrogatories, attached hereto, to be served on the parties listed on the attached service list by depositing a copy of same in the United States Mail, with proper first class postage pre-paid at 208 South LaSalle Street, Chicago, Illinois on the 27th day of May, 1993 before 5:00 p.m.

Gene Fitzgerald

Signed and sworn to
before me this 27th
day of May, 1993

Valerie M. Bedoe

NOTARY PUBLIC



SERVICE LIST
Coral International, Inc.
92 C 7592

Jerome C. Randolph
KEATING, MUETHING & KLEKAMP
1800 Provident Tower
One East Fourth Street
P.O. Box 1800
Cincinnati, Ohio 45202
(513) 579-6457 (fax)
Plaintiffs

Richard W. Cosby
COSBY AND BELL
77 West Washington Street
Suite 1605
Chicago, Illinois 60602
Plaintiffs

Sheldon A. Zabel
Gabriel M. Rodriguez
Eric L. Lohrenz
SCHIFF, HARDIN & WAITE
7200 Sears Tower
Chicago, Illinois 60606
Defendant - Abbott Laboratories

Frederick S. Mueller
Joseph R. Marconi
Daniel C. Murray
William J. Anaya
JOHNSON & BELL, LTD.
222 North LaSalle Street
Suite 2200
Chicago, Illinois 60601
Defendants - The Copley Press, Inc., North Shore Sanitary
District, Lake County Press, Inc.

Marc L. Fogelberg
Steven B. Varick
Clifton A. Lake
McBRIDE, BAKER & COLES
500 West Madison Street
40th Floor
Chicago, Illinois 60661
Defendant - Fansteel, Inc.

D. Patterson Gloor
A. Jeffrey Seidman
CASSIDAY, SCHADE & GLOOR
333 West Wacker Drive
Suite 1200
Chicago, Illinois 60606-1389
Defendants - Franciscan Sisters Healthcare Corp., d/b/a St.
Therese Medical Center and Victory Memorial Hospital
Association

James A. Gately
4309 North Damen
Chicago, Illinois 60618
(312) 477-8033 (fax)
Defendant - Jensen Disposal, Inc.

Fred Weiszmman, Jr.
1356 Shermer Road
Northbrook, Illinois 60062
Defendant - Jensen Disposal, Inc.

Robert W. Gettleman
Michael J. Quinn
Bonnie S. Kartzman
D'ANCONA & PFLAUM
30 North LaSalle Street
Suite 2900
Chicago, Illinois 60602
Defendants - Norman Kramer and Sheldon Lovinger

Grace K. Angelos
Robert P. Zapinski
Raymond T. Reott
JENNER & BLOCK
One IBM Plaza
Suite 4400
Chicago, Illinois 60611
Defendants - North Chicago Refiners & Smelters, Inc., City
of North Chicago

Bryan R. Winter
FUQUA, WINTER, STILES & ANDERSON, LTD.
Nine North County Street
Waukegan, Illinois 60085
(708) 244-0033 (fax)
Defendant - North Shore Printers, Inc.

Michael J. Sreenan
James D. Reinfranck
KECK, MAHIN & CATE
77 West Wacker Drive
49th Floor
Chicago, Illinois 60601-1693
Defendant - Rubloff, Inc.

John T. Groark
Stephen J. Schlegel
CLAUSEN, MILLER, GORMAN,
CAFFREY & WITOUS, P.C.
10 South LaSalle Street
Suite 1800
Chicago, Illinois 60603
Defendant - Stone Container Corporation

Daniel J. Biederman
HINSHAW & CULBERTSON
222 North LaSalle Street
Suite 300
Chicago, Illinois 60601-1081
Defendants - VMC, Inc., Patricia C. Penn, Mary Littlefield,
James B. Cain, Estate of John H. Cain and the Devisees and
Legatees of John H. Cain, deceased, Cain Investment Company

Thomas W. Daggett
WILDMAN, HARROLD, ALLEN & DIXON
225 West Wacker Drive
Suite 3000
Chicago, Illinois 60606-1229
Defendant - Waukegan Park District

Kristin E. Michaels
Jerome K. Bowman
Charles M. Chadd
POPE, BALLARD, SHEPHERD, FOWLE, LTD.
69 West Washington Street
Suite 3200
Chicago, Illinois 60602
Defendant - Westvaco Corporation

DEM11-05

Coral International Inc

Deposition Exerpts

1 IN THE UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION

4 WAUKEGAN COMMUNITY SCHOOL)
5 DISTRICT NO. 60, et al.,) Vol. III
6 Plaintiffs,)
7 v.) Case No. 92 C 7592
8 ABBOTT LABORATORIES, et al.,) Judge Leinenweber
9 Defendants.) Magistrate Judge Rosemond

10
11
12
13 July 30, 1993
14 9:30 a.m.

15
16 The deposition of OLE KIRKEGAARD resumed
17 pursuant to adjournment at Suite 7200, 233 South
18 Wacker Drive, Chicago, Illinois.
19
20
21
22
23
24

1 Yeoman Creek Landfill during that week.

2 A. Yes.

3 MR. RODRIGUEZ: I don't think I have anything
4 further now.

5 David.

6 MR. MUSCHLER: Yes.

7 Mr. Kirkegaard, my name is David

8 Muschler. I represent Coral International.

9 EXAMINATION

10 BY MR. MUSCHLER:

11 Q. You made a statement yesterday
12 afternoon, I believe, that at some point in time
13 you knew bad stuff went into the site, referring to
14 the Yeoman Creek site.

15 Can you tell me at what point in time
16 you knew that bad stuff went into the site?

17 A. Yes.

18 Q. When was that time?

19 A. Waukegan Disposal had had Coral Chemical
20 as one of their accounts in the sixties.

21 Q. I'm not talking specifically about
22 Coral, but you made a general comment that you knew
23 that bad stuff went into the site.

24 When did you first realize that bad

1 stuff went into the site?

2 MR. RANDOLPH: Answer to the best of your
3 recollection. Go ahead.

4 BY MR. MUSCHLER:

5 Q. Generally.

6 A. Whenever I picked up the trash for that
7 location.

8 Q. You testified yesterday that about two
9 years ago you met with some people in connection
10 with the Yeoman Creek site.

11 A. Yes.

12 Q. Can you tell us what those meetings were
13 about?

14 MR. RANDOLPH: Excuse me. To the extent that
15 they were with counsel, I'm going to instruct the
16 witness not to answer. I think he testified that
17 his meetings were with counsel, but to the extent
18 they weren't, if you can answer that question
19 without discussing meetings with counsel, you can
20 answer. Otherwise, do not answer.

21 BY MR. MUSCHLER:

22 Q. Can you answer my question?

23 A. Who I met with?

24 Q. No.

1 court reporter.)
2 BY MR. MUSCHLER:
3 Q. Sir, let me ask you about Coral now.
4 When did Coral first become a customer
5 of Waukegan Disposal, to the best of your
6 recollection?
7 A. In the sixties.
8 Q. In the early sixties or mid-sixties?
9 A. I don't know.
10 Q. Let me ask this: Do you recall ever
11 taking a pickup from Coral which would have
12 included Coral's waste to the Edward Field
13 landfill?
14 A. Yes.
15 Q. You do?
16 A. Yes.
17 Q. So Coral became a customer when Edward
18 Field was still open, is that correct?
19 A. Yes.
20 Q. Did you have any direct dealings with
21 anybody from Coral?
22 A. No.
23 Q. Did you solicit Coral to be a customer?
24 A. No.

1 Q. Do you know how Coral was billed during
2 this period of time that they were a customer? I
3 should limit it to up until 1969 when Yeoman Creek
4 closed.
5 A. I believe a flat rate.
6 Q. During the entire period of time?
7 A. I don't know.
8 Q. Okay. Do you recall ever making out any
9 documentation or tickets in connection with Coral
10 during this period of time?
11 A. No.
12 Q. Do you know what the rate was that Coral
13 paid for this service?
14 A. No.
15 Q. Did you have any input into determining
16 what that rate was?
17 A. No.
18 Q. Which route was Coral on?
19 A. The route that picked up Washington
20 Street.
21 Q. Okay.
22 A. West.
23 Q. Were they always on that route?
24 A. To the best of my knowledge, yes.

1 Q. Was there a time prior to when that
2 route started that you picked stuff up from Coral?

3 A. I don't recall.
4 Q. It's my recollection that your testimony
5 several days ago now was that that route started in
6 the mid-sixties.
7 Is that correct or incorrect?
8 MR. RANDOLPH: Are you asking him is it
9 correct or incorrect that that's his testimony or
10 correct or incorrect that that was the time that
11 that route started up?
12 MR. MUSCHLER: Let's make it whether that was
13 the time that that route started.
14 BY THE WITNESS:
15 A. I don't recall.
16 BY MR. MUSCHLER:
17 Q. So now you don't recall exactly when
18 that -- can we refer to it as the Washington Street
19 route?
20 A. Yes.
21 Q. Is that a fair description?
22 A. Yes.
23 Q. You don't recall when the Washington
24 Street route began or was first run, is that

581

1 correct?
2 A. It could have been in the mid-sixties.
3 Q. In the mid-sixties?
4 A. Yes.
5 Q. Was Coral on any other route that you
6 recall?
7 A. No.
8 Q. What was the number of containers that
9 were located at Coral?
10 A. They had six cubic yard container open
11 top.
12 MR. RANDOLPH: Dave, I have to make a phone
13 call around 2:30, if we could take about a
14 two-minute break.
15 MR. MUSCHLER: Do you want to break now?
16 MR. RANDOLPH: Yes, I'd like to.
17 (WHEREUPON, a recess was had.)
18 MR. MUSCHLER: Back on the record.
19 BY MR. MUSCHLER:
20 Q. You testified, Mr. Kirkegaard, with
21 regard to Coral there was a six cubic yard
22 container at that location, is that correct?
23 A. Yes.
24 Q. Okay. Now, how many containers were

582

1 there?
2 A. One.
3 Q. There was one six cubic yard container?
4 A. Yes.
5 Q. Was that for the entire period of time

6 that you picked up from Coral up to -- the period
7 we are concerned about, as I'm sure you realize, is
8 up to mid-1969.
9 Was there always one six cubic yard
10 container?
11 A. Yes.
12 Q. Was there ever a time that the container
13 was smaller than six cubic yards?
14 A. No.
15 Q. And you indicated that it was uncovered,
16 is that correct?
17 A. Yes.
18 Q. Was there any reason why it was
19 uncovered, to your knowledge?
20 A. They had bulky material.
21 Q. Bulky material?
22 A. Bulky material, yes.
23 Q. Were there any markings on the
24 container?

583

1 A. I don't recall.
2 Q. Do you recall the color by any chance?
3 A. Green, I believe.
4 Q. Green?
5 A. Yes.
6 Q. Would there be Waukegan Disposal written
7 on the container?
8 A. Some of them has the name on it and some
9 doesn't.
10 Q. Okay. But the container at Coral I take
11 it was a Waukegan Disposal container, correct?
12 A. Yes.
13 Q. Were there ever barrels prior to the
14 time that a container was there?
15 You indicated that there was a time when
16 you emptied barrels before containers came on the
17 scene. Do you ever recall emptying barrels at
18 Coral?
19 A. Yes.
20 Q. Okay. When did that occur?
21 A. Every time we got there they had the
22 container full plus extra barrels next to it, which
23 we picked up also.
24 Q. Okay. Were the barrels completely

584

1 picked up or emptied into the garbage truck?
2 Do you understand my question?
3 Did you pick up and dispose the whole
4 barrel, or did you empty the barrel into the
5 garbage truck?
6 A. The ones that was in the six-yard, we
7 empty it into the truck with the hoist. The ones
8 that was sitting next to the container or around
9 the container, we picked them up by hand and throw

10 them in there, too.
11 Q. Did you throw the contents of the
12 barrels in or the whole barrels in?
13 A. Some they wanted to keep, we emptied
14 them, and some we throw in it all.
15 Q. How did you know which ones to empty and
16 which ones to dispose?
17 A. Sometimes they came out and told us they
18 wanted to keep some barrels, the good ones, and
19 then the bad ones we threw away.
20 Q. Who was this that would come out?
21 A. Someone at Coral came out.
22 Q. Do you know that person's name?
23 A. No.
24 Q. How many barrels would there be that you

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1 would pick up in addition to the container?
2 A. Between 10 and 15.
3 Q. On every pickup --
4 A. Yes.
5 Q. -- would that be?
6 A. Yes.
7 Q. How frequent were your pickups?
8 A. That was five days a week.
9 Q. During the entire period of time you
10 picked up at Coral five days a week, is that
11 correct?
12 A. Yes.
13 Q. On each of those days, you had a similar
14 amount of waste to pick up, a container and 10 to
15 15 barrels?
16 A. Yes.
17 Q. Was there any discussion at any time
18 that they should get another container?
19 MR. RANDOLPH: You mean that Mr. Kirkegaard
20 had with them?
21 MR. MUSCHLER: That's right.
22 BY THE WITNESS:
23 A. No.
24 BY MR. MUSCHLER:

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1 Q. Did you have any discussion with your
2 brother Peder or anybody else at Waukegan Disposal
3 that Coral should have more containers? By
4 "containers," I mean Waukegan Disposal
5 containers.
6 A. No.
7 Q. Did you make any special runs to Coral
8 that you recall? By "special runs," call-ins, I
9 guess, during this period.
10 A. Yes.
11 Q. How frequently were those call-in runs?
12 A. Maybe a couple of times a month.

13 Q. What did you pick up on those occasions
14 when they called you for a pickup?
15 A. Barrels.
16 Q. Barrels?
17 A. Yes. On the flat bed.
18 Q. Okay. What did you do with those
19 barrels?
20 A. We took them to the landfill.
21 Q. Okay. Was there an occasion ever where
22 you picked up barrels from Coral and took them to
23 other customers?
24 A. No.

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1 MR. RANDOLPH: Other customers of Waukegan
2 Disposal?
3 MR. MUSCHLER: Of Waukegan Disposal.
4 BY THE WITNESS:
5 A. No.
6 BY MR. MUSCHLER:
7 Q. Was there ever a time that you made a
8 request to Coral for empty barrels?
9 A. No.
10 Q. Do you recall any occasion that you may
11 have heard that your brother or somebody else from
12 Waukegan Disposal made a request to Coral for
13 barrels?
14 A. I don't recall, no.
15 Q. How often did you pick up from Coral?
16 A. Five days a week.
17 Q. Now, were you on the run that picked up
18 from Coral -- I should say how long were you on the
19 run when you picked up from Coral?
20 A. When I had that route on Washington
21 Street, I picked up that, and that could have been
22 a year, it could have been six months at a time.
23 Q. This information about the containers
24 and the barrels and the call-ins, is it your

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1 testimony that that is information derived from
2 your memory during this period of time, that is,
3 the period of time when you were doing the route
4 for Coral?
5 A. Yes. Okay.
6 MR. RANDOLPH: Excuse me one second.
7 (WHEREUPON, discussion was had
8 off the record between the witness
9 and Mr. Randolph outside the
10 hearing of other counsel and the
11 court reporter.)
12 BY MR. MUSCHLER:
13 Q. Could you describe for us what was in
14 the container?
15 MR. RANDOLPH: Are we talking about the

16 six-yard container?
17 MR. MUSCHLER: The six-yard container.
18 BY THE WITNESS:
19 A. That was paper bags, empty paper bags,
20 pallet pieces, drums, fiber drums and light steel
21 drums. Once in a while some of the drums was not
22 emptied all the way complete. There was liquid in
23 the drums, and there was liquid in the bottom of
24 the six-yarder.

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1 BY MR. MUSCHLER:
2 Q. Anything else?
3 A. And there was corrugated mixed with
4 office papers as well.
5 Q. Well, let's do your percentage game.
6 What percent was paper bags.
7 MR. RANDOLPH: If you can tell us
8 percentages.
9 BY MR. MUSCHLER:
10 Q. To the best of your ability, sir.
11 A. I would say paper bags was 20 percent.
12 Q. And pallet pieces?
13 A. Ten.
14 Q. And you said drums, both fiber and light
15 steel.
16 A. Yes. I would say 50 percent of the
17 time -- of the --
18 Q. And can you quantify the amount of
19 liquid that would have been on the bottom of the
20 container?
21 A. In percentage?
22 Q. Yes.
23 A. Five percent.
24 Q. I believe you said corrugated boxes and

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1 office papers.
2 A. Another five percent.
3 Q. On the paper bags, was there any writing
4 on the paper bags?
5 A. Yes.
6 Q. Do you recall what that writing was?
7 A. No.
8 Q. What color were the bags?
9 A. Gray type.
10 Q. Let me ask you the same question with
11 regard to the drums, sir. Was there any writing on
12 the drums?
13 A. Some of them, yes.
14 Q. Do you recall what the writing was? Do
15 you recall any of the writing?
16 A. No.
17 Q. Okay. What color were the drums?
18 A. The fiber drums was tan, tan coloring,

19 and light steel drums was black.
20 Q. Can you describe the liquid in the
21 container? By "the container," I mean the six-yard
22 container.
23 MR. RANDOLPH: You mean the loose liquid at
24 the bottom?

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1 MR. MUSCHLER: That's right.
2 BY THE WITNESS:
3 A. Yes. It was brownish-gray coloring.
4 There was more than just one color. Different
5 types of colors. A few times we got some on
6 our skin and it was itchy.
7 BY MR. MUSCHLER:
8 Q. Did you ever have to go to a doctor as a
9 result of getting it on your skin?
10 A. No.
11 Q. Did you ever go to the hospital?
12 A. No.
13 Q. Did it ever cause any inflammation on
14 the skin?
15 A. It caused irritations on the skin.
16 Q. You don't know what the liquid was
17 though, do you?
18 A. No.
19 Q. Can you describe for me what was
20 contained in the barrels?
21 MR. RANDOLPH: Just so we are clear, we are
22 talking about the barrels alongside the six-yard
23 container?
24 MR. MUSCHLER: That's correct.

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1 BY THE WITNESS:
2 A. Some of the drums there was some powder
3 in them, and some of them was liquid, remains of
4 liquid.
5 BY MR. MUSCHLER:
6 Q. Were these generally empty drums though
7 that you are talking about?
8 A. Yes.
9 Q. Okay. There was just some leftover
10 powder or liquid.
11 A. Yes.
12 Q. Can you describe the liquid for me?
13 A. It was very strong, smelly type of
14 liquid.
15 Q. How about the powder?
16 A. It was very dusty and strong-smelling.
17 Q. You don't know what it was though, the
18 powder.
19 A. No.
20 Q. Do you know what the liquid was in those
21 barrels?

22 A. No.
23 Q. I'm going to ask you, sir -- I realize
24 you didn't realize when you came here that you were

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1 going to turn into an artist, but to draw for me --
2 MR. RANDOLPH: I don't think that's happened
3 yet.
4 BY MR. MUSCHLER:
5 Q. -- the Coral site as you would pull up
6 to pick up.
7 A. Sure.
8 MR. RANDOLPH: Why don't you use a pencil?
9 (WHEREUPON, a certain document was
10 marked O. Kirkegaard Deposition
11 Exhibit No. 14, for identification,
12 as of 7/30/93.)
13 BY MR. MUSCHLER:
14 Q. Let me show you, sir, what has been
15 marked as Kirkegaard Deposition Exhibit No. 14 and
16 ask you whether that is the sketch of the Coral
17 Chemical facility that you just have drawn?
18 A. Yes.
19 Q. Okay. Can you describe for us where the
20 container was located at the facility?
21 A. Yes.
22 Q. Where?
23 A. On the north side of the building.
24 Q. Okay. How did you gain access to that?

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1 A. From the west side. We backed into the
2 container.
3 Q. Okay. Was there a gate there or a fence
4 there?
5 A. Yes. On the north side, there was a
6 gate.
7 Q. Did you have to notify anybody from
8 Coral before the gate would be opened or was the
9 gate customarily opened for you?
10 A. It was opened.
11 Q. Okay. And take me through -- you're
12 driving up now. You're pulling the truck -- I take
13 it you back it in.
14 A. Yes.
15 Q. Is that correct?
16 A. Yes.
17 Q. You back it in.
18 Would you take me through step by step
19 what you do as the driver.
20 MR. RANDOLPH: Just go ahead and describe it.
21 BY MR. MUSCHLER:
22 Q. Just describe what you do.
23 A. Okay. I would come driving up to the
24 building and turn out and back in on the north side

1 of the building.
2 Q. And then what would you do?
3 A. Back up to the container.
4 Q. And then?
5 A. I would make sure that the truck was
6 right parallel with the container so they would fit
7 into the attachment in the back of the container.
8 I would get out of the truck, go in the back, rear
9 end of the truck, pick up a cable. There is a
10 wench up at the top of the truck. A wench.
11 Q. That's a cable off of the truck?
12 A. Yes. We use that cable to hook it onto
13 the back part of the six-cubic yard, and pull the
14 lever for the wench and it would pull up the rear
15 end of the container, which would automatically
16 empty into the garbage truck.
17 Q. Okay. Now, where was the control for
18 initiating the pulling up of the container?
19 A. On the rear end of the truck.
20 Q. On the rear end of the truck?
21 A. Right.
22 Q. Okay.
23 A. At the right side.
24 Q. As the materials were being dumped into

1 the truck, where were you located?
2 A. On the right side of the truck in the
3 rear.
4 Q. By that control?
5 A. Yes.
6 Q. Is that right?
7 A. Yes.
8 Q. Now, were you able to dump the whole
9 load in at one time?
10 A. No.
11 Q. Okay. What happened then?
12 A. Well, as you lift up the container to a
13 45-degree angle, stuff will fall into the hopper,
14 which is a two cubic yard opening. You would pull
15 the lever for the blade to come out. The packer
16 blade would come out and go down to the bottom of
17 the hopper, and it would pack in toward the truck
18 inside.
19 Q. I take it as that would happen some more
20 material would fall into the back of the truck.
21 A. Yes, and then you would lift up the
22 container a little more so more stuff would fall
23 into the hopper after the blade was in, and then
24 you will repeat the same again.

1 Q. How many times would you have to repeat
2 that operation for a six-yard container?
3 A. I would say three to four times.
4 Q. Okay. And then what did you do?
5 A. Then I would pull the lever for the
6 wench and let the container back down.
7 Q. And then what?
8 A. Then I would pull a little bit forward
9 of the container, and then I would get off the
10 truck again and pick up the barrels that was
11 sitting around the container on both sides.
12 Q. Okay.
13 A. And empty them by hand into the truck.
14 Q. How long did that process take?
15 MR. RANDOLPH: Which process, the whole thing
16 or just the drums?
17 MR. MUSCHLER: No, no. The drums.
18 BY THE WITNESS:
19 A. Three to four minutes.
20 BY MR. MUSCHLER:
21 Q. How long did the whole process take from
22 the time that you were starting to back in?
23 A. 10 minutes, maybe, 12 minutes.
24 Q. Now, you have marked on this Exhibit No.

1 14 that there is, I believe, an office for Coral
2 Chemical, is that correct?
3 A. Yes.
4 Q. How did you know that was the office for
5 Coral?
6 A. That was the main office at that
7 particular corner of the building.
8 Q. Did you ever go in the office?
9 A. No.
10 Q. Okay. Did somebody tell you that that
11 was the office?
12 A. No, but -- anyone can see it's an
13 office.
14 Q. How can you tell that that's an office
15 versus the rest of the building? What was located
16 in the rest of the building?
17 A. Because there's office windows and so
18 forth.
19 Q. Okay. Now, was this the configuration
20 at Coral for all the period of time that you picked
21 up at Coral during this period?
22 A. Yes.
23 MR. MUSCHLER: Okay.
24 MR. RANDOLPH: Can I just note for the record

1 that on the exhibit that is Exhibit 14 the witness
2 has drawn the building with the office in what

3 appears to be the northwest corner and just east of
4 the office and north of the office drawn a small
5 rectangle with little dots around the rectangle.
6 THE WITNESS: Yes.
7 MR. RANDOLPH: Does that represent where the
8 container and the drums were?
9 THE WITNESS: Yes.
10 MR. RANDOLPH: Okay.
11 BY MR. MUSCHLER:
12 Q. What time of the day would this usually
13 be?
14 A. I remember we had to be there before
15 3:00 o'clock because 3:00 o'clock was their closing
16 time at Coral.
17 Q. Okay.
18 A. Yes.
19 Q. So it was sometime prior to 3:00?
20 A. Before 3:00.
21 Q. Is that right?
22 A. Yes.
23 Q. Would it have been customarily after
24 12:00 noon?

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1 A. I don't remember.
2 Q. Do you recall if you would have
3 customarily previously made a stop at the Yeoman
4 Creek dump on this route?
5 Do you understand my question?
6 A. Yes. Yes, it could have. Yes.
7 Q. Would that have been customary that you
8 would have previously made a stop at the dump so
9 that you would have had a somewhat empty truck at
10 that time?
11 A. Not necessarily. It all depends how
12 much we had on the load before we get to that
13 particular location.
14 Q. Did you leave any paperwork at Coral
15 after you made a pickup?
16 A. No.
17 Q. Did you ever have any discussions with
18 anybody at Coral?
19 A. No.
20 Q. Did you ever deliver Coral's materials
21 to any other site other than Yeoman Creek or
22 Edwards Field?
23 A. No.
24 MR. MUSCHLER: Okay. I think that's it.

1 IN THE UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION
4 WAUKEGAN COMMUNITY SCHOOL)
5 DISTRICT NO. 60, et al.,)
6 Plaintiffs,)
7 v.) Case No. 92 C 7592
8 ABBOTT LABORATORIES, et al.,) Judge Leinenweber
9 Defendants.) Magistrate Judge Rosemond
10
11 August 19, 1993
12 10:30 a.m.
13
14 The deposition of OLE KIRKEGAARD resumed
15 pursuant to adjournment at Suite 6600, 233 South
16 Wacker Drive, Chicago, Illinois.
17
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19
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1 A. Yeoman Creek.
2 Q. By "Yeoman Creek," are you including
3 Edwards Field in that as well?
4 A. Edwards Field, yes.
5 Q. Okay. Where did the waste from the
6 North Shore Sanitary District go during the time it
7 was picked up by Waukegan Disposal?
8 A. Yeoman Creek and Edwards Field.
9 Q. You talked about two different
10 facilities for the North Shore Sanitary District.
11 Do you recall that?
12 A. Yes.
13 Q. One of them being the Dahringer Road
14 facility.
15 A. Yes.
16 Q. When did Waukegan Disposal begin picking
17 up the Dahringer Road facility at North Shore
18 Sanitary District?
19 A. Mid-sixties.
20 Q. How are you able to recall that that
21 didn't begin until the mid-1960s?
22 A. That was a fairly new plant at that
23 time.
24 Q. Where did the waste from Coral Chemical

1 go during the time it was picked up by Waukegan
2 Disposal?
3 A. Edwards Field and Yeoman Creek.
4 Q. Was that true for both the regular
5 pickups as well as the special pickups?
6 A. Yes.
7 Q. Where did the waste from St. Therese
8 Hospital go during the time it was picked up by
9 Waukegan Disposal?
10 A. Yeoman Creek, Edwards Field.
11 Q. How about Victory Hospital?
12 A. Yeoman Creek and Edwards Field.
13 Q. When the afternoon route filled up
14 before you got to Griess-Pfleger, did you ever take
15 the filled truck to any other landfill other than
16 Edwards Field or Yeoman Creek?
17 A. Repeat the question again.
18 Q. Sure.
19 On the afternoon route, you testified on
20 occasion you would fill the truck before you got to
21 Griess-Pfleger.
22 Do you recall that?
23 A. Yes.
24 Q. When the truck filled up, did you ever

1 take the filled truck to any other landfill or
2 location other than Yeoman Creek or Edwards Field?

3 A. No.

4 MR. RANDOLPH: Can I have about three minutes
5 or five minutes to review my notes? I think I'm
6 just about done.

7 Why don't we take about a five-minute
8 break and I will finish up.

9 (WHEREUPON, a recess was had.)

10 MR. RANDOLPH: That concludes my examination
11 of Mr. Kirkegaard.

12 It's my understanding that the
13 individual plaintiffs may wish to examine Mr.
14 Kirkegaard at this point.

15 MR. BLEIWEISS: Good morning, Ole. I'm Shell
16 Bleiweiss representing Outboard Marine
17 Corporation.

18 EXAMINATION

19 BY MR. BLEIWEISS:

20 Q. Ole, did you ever see Stone Container's
21 own trucks make any deliveries to either Edwards
22 Field or Yeoman Creek Landfills?

23 A. No.

24 Q. Do you have any knowledge from any

1 about a customer by the name of Chem-Rite --
2 A. Yes.
3 Q. -- am I correct?
4 And Chem-Rite was on LeBaron Street, is
5 that correct?
6 A. Yes.
7 Q. Can you tell me whether you picked up
8 Chem-Rite before or after you picked up materials
9 from Coral?
10 A. It varies. Once in a while we would
11 pick up Coral first, and other times we would pick
12 up Chem-Rite first.
13 Q. Was there any reason why you would do it
14 in a different order?
15 A. It all depend on what -- see, Chem-Rite
16 and Coral is on the same street, very close by. It
17 all depends on what side you came from. If we came
18 from the north end, we would take Coral first, and
19 if we came from the south end off Washington
20 Street, we will take Chem-Rite first.
21 Q. It was my understanding that when we
22 were dealing with, I believe it's your Deposition
23 Exhibit No. 1 --
24 MR. RANDOLPH: Yes, sir.

1 BY MR. MUSCHLER:
2 Q. -- that you testified that you, I
3 believe, always came off Washington Street to pick
4 up Coral's materials.
5 A. There's two streets. There's Noll
6 Street and Washington Street side by side going
7 north and east each one of them. Once in a while,
8 we started off of Washington Street on Noll Street,
9 finished off Noll Street and came up on the other
10 end street, Monroe Street, and came up and started
11 on LeBaron, and right to your left was Coral
12 Chemical. If we came from that side, we would take
13 Coral Chemical first.
14 Other times we would stop at Washington
15 Street and start on LeBaron going north. When we
16 did that, we would take Chem-Rite first because
17 that was on the west side of Noll -- on LeBaron
18 before whatever you want to call it.
19 Q. Before Coral?
20 A. Yes, before Coral.
21 Q. How many customers did you have on
22 LeBaron Street?
23 A. About four or five.
24 Q. Okay. Now, for how long did you pick

1 up, you yourself, pick up materials from Chem-Rite?

2 A. During the sixties.
3 Q. But you drove different routes, didn't
4 you, sir?
5 A. Yes.
6 Q. And my question to you is for what
7 period of time did you yourself pick up materials
8 from Chem-Rite.
9 A. How long a time?
10 Q. Yes.
11 A. Combining when I was off the route and
12 came back on that route again, I would say three,
13 four years.
14 Q. Okay. That was during the sixties?
15 A. Yes.
16 MR. MUSCHLER: Okay. That's all I have.
17 Thank you.
18 MR. DAGGETT: Mr. Kirkegaard, I spoke with you
19 a couple weeks ago. I'm Tom Daggett, and I
20 represent the Waukegan Park District.
21 I'd like to ask you a few questions
22 about the aerial photo that has been shown to you
23 as Exhibit No. 26.
24

1 IN THE UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION
4 WAUKEGAN COMMUNITY SCHOOL)
5 DISTRICT NO. 60, et al.,)
6 Plaintiffs,) VOLUME I
7 v.) Case No. 92 C 7592
8 ABBOTT LABORATORIES, et al.) Judge Leinenweber
9 Defendants.) Magistrate Judge Rosemond
10
11

12 The deposition of PEDER KIRKEGAARD,
13 called as a witness for examination, taken pursuant
14 to the Federal Rules of Civil Procedure of the
15 United States District Courts pertaining to the
16 taking of depositions, taken before MELANIE JAKUS,
17 a Notary Public within and for the County of
18 DuPage, State of Illinois, and a Certified
19 Shorthand Reporter of said state, at The Marc Plaza
20 Hotel, 509 West Wisconsin Avenue, Milwaukee,
21 Wisconsin, on the 19th day of October, A.D. 1993,
22 at 9:30 a.m.
23
24

1 drivers were injured by any of the waste that was
2 being picked up from your customers?
3 A. Yes. I remember I was injured myself at
4 one time.
5 Q. Can you tell us about that, please?
6 A. Yes. It happened at Coral Chemical
7 Company off of Washington Street in Waukegan.
8 While I was dumping the dumpster, some liquid ran
9 down on the top of my head. I didn't think much of
10 it at the time, but as I drove away from there it
11 started burning. I got my head rinsed off with
12 water, but it was a big hole into my head that it
13 burned pretty deep.
14 Q. It pierced through the skin.
15 A. Yes. Oh, way through the skin.
16 Q. Did it bleed, do you recall?
17 A. I don't think it was bleeding, no.
18 Q. Okay. When was that?
19 A. I cannot remember the date of when that
20 was.
21 Q. Do you think it was before or after you
22 incorporated?
23 A. It was after.
24 Q. Do you know when you picked up Coral

1 Chemical as a customer?
2 A. The day, no.
3 Q. Do you know approximately when it was
4 that you began picking up from Coral Chemical?
5 A. It was in the late sixties.
6 Q. Okay. Other than that, can you recall
7 any other time when you were injured by any of the
8 waste that Waukegan Disposal picked up from its
9 customers?
10 A. Not right off. I'm sure it happened,
11 but I can't remember any particular besides this.
12 Q. Can you recall any time when any of your
13 drivers were injured by any of the waste that was
14 picked up by Waukegan Disposal?
15 A. Not in particular.
16 Q. Do you recall any time that Ole was
17 injured by any of the waste that he picked up?
18 A. I remember very well Ole got injured
19 very badly from a motor that rolled off of a
20 roll-off and broke his neck. This was after he
21 worked for BFI.
22 Q. Okay. Let's just direct ourselves to
23 the time before --
24 A. Okay.

1 IN THE UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION
4 WAUKEGAN COMMUNITY SCHOOL)
5 DISTRICT NO. 60, et al.,)
6 Plaintiffs,) VOLUME II
7 v.) Case No. 92 C 7592
8 ABBOTT LABORATORIES, et al.) Judge Leinenweber
9 Defendants.) Magistrate Judge Rosemond
10
11
12 October 20, 1993
13 9:30 a.m.
14
15 The deposition of PEDER KIRKEGAARD
16 resumed pursuant to adjournment at The Marc Plaza
17 Hotel, 509 West Wisconsin Avenue, Milwaukee,
18 Wisconsin.
19
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21
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1 responsibilities to handle the billing?
2 A. Yes.
3 Q. To your knowledge, was your wife ever in
4 a position to know what type of waste was picked up
5 from specific Waukegan Disposal customers?
6 A. No, I don't believe she was.
7 Q. I take it she never went out on the
8 truck.
9 A. No.
10 MR. BOWMAN: Just had to ask every question.
11 If you will just give me one minute, I
12 think I'm done.
13 Thank you, Mr. Kirkegaard. I think
14 that's all I have now.
15 THE WITNESS: You're welcome.
16 MR. MUSCHLER: Mr. Kirkegaard, my name is Dave
17 Muschler. I represent Coral International. You
18 may have known them as Coral Chemical at some
19 time.
20 THE WITNESS: Absolutely.
21 EXAMINATION
22 BY MR. MUSCHLER:
23 Q. Was Coral a customer of yours?
24 A. Yes.

1 Q. Okay. For how long was Coral a customer
2 of Waukegan Disposal?
3 A. For several years.
4 Q. Can you tell me when they first became a
5 customer?
6 A. Not in particular, but it was in the
7 late sixties, middle to late sixties.
8 Q. Mid to late sixties.
9 How long were they a customer of
10 Waukegan Disposal?
11 A. They continued to be a customer of
12 Waukegan Disposal till we sold out to BFI.
13 Q. To your knowledge, were they then a
14 customer of BFI?
15 A. I believe so.
16 Q. Okay. Can you tell me, Mr. Kirkegaard,
17 how they became a customer of Waukegan Disposal?
18 A. That I could not tell you.
19 Q. Did you solicit them?
20 A. I don't believe I did personally.
21 Q. Do you know --
22 A. It could have come in by the phone or --
23 I'm not sure.
24 Q. Okay. As you sit here today, you don't

1 know -- you do not remember that you yourself
2 solicited Waukegan Disposal. Excuse me. Let me

3 start over again.
4 As you sit here today, you do not recall
5 that you yourself solicited Coral to be a customer
6 of Waukegan Disposal.
7 A. No, I don't.
8 Q. Okay. Did you have any dealings with
9 anybody at Coral?
10 A. I personally don't recall any dealings
11 with any particular person at Coral.
12 Q. Do you know, as you sit here today, any
13 names of any employees of Coral?
14 A. No.
15 Q. Would you describe your involvement
16 personally now, Peder Kirkegaard, your involvement
17 with Coral?
18 A. My involvement with Coral was that I
19 made pickups there. They had a six-yard container
20 in back of the building, which is a big dumpster
21 that has to be hoisted up with a cable that's
22 mounted on the back of the truck.
23 Q. And that was your only contact with
24 Coral.

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1 A. Excuse me.
2 Q. That was your only contact with Coral,
3 that is, that you drove a truck into Coral and
4 picked up from Coral.
5 A. Basically, yes.
6 Q. Okay. Can you tell me, sir, where Coral
7 was located?
8 A. They were located off of Washington
9 Street west of Waukegan.
10 Q. Okay. Can you describe the garbage
11 pickup area at Coral?
12 A. Yes. I recall we would come in from the
13 street, I believe the street were called LeBaron,
14 and we would come in close to the office building
15 and the offices and turn around and back up to a
16 loading dock that was sitting outside a big
17 overhead door where they would bring out the waste
18 from the factory.
19 Q. Okay. You testified that they had one
20 six-yard container.
21 A. They had one six-yard container.
22 Q. Was there any time, sir, that the
23 description or the characterization of the pickup
24 area at Coral changed in any way?

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1 A. Not to my knowledge.
2 Q. Okay. How many times do you think, in
3 your best estimate, sir, you made an actual pickup
4 at Coral?
5 A. Oh, I would say a lot of times.

6 Q. Okay. Would you say that you picked up
7 there more than anybody else at Waukegan Disposal?
8 A. No. I will not say that, but I was in
9 there plenty.
10 Q. Okay. During what years were you in
11 there picking up from Coral personally now?
12 A. From the time we received the account
13 till, basically, we sold out to BFI.
14 Q. Okay. Did you do any pickups -- were
15 you on the truck at all --
16 A. Yes.
17 MS. CLOKEY: Let him finish the question.
18 BY MR. MUSCHLER:
19 Q. -- after Waukegan Disposal sold out to
20 BFI?
21 A. No.
22 Q. So it was up to the time that you sold
23 your business to BFI, is that correct?
24 A. Yes.

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1 Q. It's your recollection that during the
2 times that you made pickups at Coral the area where
3 you picked up from did not change at all, is that
4 correct?
5 A. Not to my recollection.
6 Q. Okay. Was there ever a time that they
7 had any other containers other than a six-yard
8 container?
9 A. There was other times we had special
10 pickups.
11 Q. Okay. But how about the container that
12 was there? Did they always have a six-yard
13 container?
14 A. To my knowledge, they always had a --
15 they started out with a six-yard container.
16 Q. Up until you sold your business to BFI,
17 they had a six-yard container.
18 A. I believe so.
19 Q. Do you have any recollection of their
20 ever having a roll-off box?
21 A. I do not recall that, but I remember we
22 had a dump truck in there to pick up before we got
23 the roll-off.
24 Q. Okay. So there was a time that they had

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1 a roll-off box.
2 A. A dump truck.
3 Q. A dump truck?
4 A. Yes.
5 Q. Now, was that for a special pickup?
6 A. That was for a special pickup.
7 Q. Okay. But it is your testimony that
8 they always had a six-yard container.

9 A. Yes.
10 Q. Okay. Was that Waukegan Disposal's
11 six-yard container?
12 A. Yes, it was.
13 Q. Do you know what kind of business Coral
14 was in?
15 A. Chemical.
16 Q. What do you mean by chemical business?
17 A. Well, I don't know especially what type
18 of chemical it was.
19 Q. Do you know them to be in the chemical
20 business because their name at one time was Coral
21 Chemical?
22 A. No, because of the material that we
23 picked up there as waste was pretty powerful
24 stuff. At one time I got a burn on the top of my

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1 head very badly from some material that leaked out
2 from the container.
3 Q. Okay. I'll get back to that, if I may.
4 You don't know what chemicals Coral
5 deals with though, is that correct?
6 A. No, I don't.
7 Q. Okay. Do you know what products Coral
8 makes?
9 A. No.
10 Q. Do you know what customers Coral has?
11 A. No.
12 Q. Can you tell me who else would have done
13 the pickups at Coral?
14 A. Richard Engstrom was a driver of ours,
15 Ole Kirkegaard, and basically the drivers we had in
16 the late sixties would have done it at one time or
17 another.
18 Q. Was Mr. Josephson ever a driver for
19 Waukegan Disposal?
20 A. No.
21 Q. How frequently did Waukegan Disposal
22 pick up at Coral?
23 A. I can't recall that.
24 Q. So you don't know if they picked up

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1 every workday at Coral.
2 A. I'm not sure.
3 Q. Okay. You did testify though that there
4 were special pickups on occasion.
5 A. Yes.
6 Q. Can you tell me how often there were
7 special pickups at Coral?
8 A. It was maybe once or twice a month.
9 Q. Okay. Can you tell me what was the
10 nature of the waste contained in the special
11 pickups?

12 A. That was empty drums and like corrugated
13 drums and also some metal drums with some material
14 in them. They had lids on them so we did not know
15 what was in the drums.
16 Q. Was there any writing on the drums?
17 A. There was some labels on the drums
18 maybe. I believe it was, yes.
19 Q. Okay. But are you sure now?
20 A. I'm sure.
21 Q. Okay. What were those labels?
22 A. I couldn't tell you.
23 Q. Okay. You said that the drums were
24 generally empty.

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1 MR. RANDOLPH: Excuse me. I think that's a
2 misstatement. I think that some of them were and
3 some of them weren't. I object.
4 MR. MUSCHLER: Let me go back.
5 BY MR. MUSCHLER:
6 Q. What were the drums? Can you describe?
7 A. Some of the drums were corrugated drums,
8 and some were metal drums, and some of the drums
9 would have amounts of a material left in them
10 because they were very heavy.
11 Q. Okay. Were they covered drums?
12 A. They were covered drums, yes.
13 Q. What would you do with those drums?
14 A. We would take them to the landfill.
15 Q. Now, before you took them to the
16 landfill -- let's pretend we are at the Coral
17 location now.
18 A. Okay. Coral Chemical.
19 Q. And you have the drums there.
20 What do you do with the drums?
21 A. Coral would bring them out on a forklift
22 to the truck and load them.
23 Q. So Coral would load them onto your
24 garbage truck.

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1 A. Yes, onto our dump truck.
2 Q. Okay. Then you would take them and
3 deliver them to the landfill.
4 A. Yes.
5 Q. Were they always delivered to Yeoman
6 Creek Landfill?
7 A. Yes.
8 Q. Okay. Now, this was in connection with
9 the special pickups, is that right?
10 A. Yes.
11 Q. Can you describe for me the nature of
12 the waste that Coral had on a general basis, not
13 the special pickups?
14 A. Yes. There was quite a bit of paper

15 bags, but there was also some smaller size
16 corrugated drums they had dumped into the six-yard
17 dumpster with some remaining powder and chemicals
18 in them.
19 Q. Now, you say "powder and chemicals."
20 How do you distinguish between powder
21 and chemicals?
22 A. Well, let's call it powder.
23 Q. Okay. So you don't know what that
24 powder was.

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1 A. No.
2 Q. Okay. Did the powder have any color to
3 it?
4 A. As I recall, it was white.
5 Q. Do you remember anything else about the
6 waste of Coral?
7 A. Well, empty paper bags and napkins,
8 waste from the men's room, I believe, and that's
9 basically it. There was some juice left in the
10 dumpster as well.
11 Q. Some what left in the dumpster?
12 A. Some liquid.
13 MR. RANDOLPH: I think he said "juice."
14 BY MR. MUSCHLER:
15 Q. Do you know what that liquid was?
16 A. No, I don't know, but I felt what it was
17 like. This is the material that ran down on the
18 top of my head.
19 Q. Let me ask you again, before we get to
20 that, did the containers at Coral have covers on
21 them?
22 A. They had a cover on them, but as the
23 employees from Coral Chemical closing the lids,
24 rainwater could get into it as well.

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1 Q. So this liquid could have been
2 rainwater, is that correct?
3 A. It could have been rainwater mixed with
4 some of the chemical that developed the action that
5 burned my head.
6 Q. But I'm going to take you back, sir.
7 A. Okay.
8 Q. You testified that there was powder in
9 that.
10 A. Yes.
11 Q. You didn't know that that was chemical
12 now, did you?
13 A. No, I couldn't.
14 Q. Okay. So you don't know whether the
15 rainwater was mixed with any chemicals, do you?
16 MR. RANDOLPH: Which rainwater are we now
17 talking about?

18 MR. MUSCHLER: I'm talking about the rainwater
19 that he just described in the container.
20 MR. RANDOLPH: The rainwater that fell on his
21 head?
22 MR. MUSCHLER: No, I'm not.
23 MR. RANDOLPH: I'm not sure then.
24 BY MR. MUSCHLER:

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1 Q. Mr. Kirkegaard, you described that the
2 containers were at times open.
3 A. Yes.
4 Q. That they could accumulate rainwater, is
5 that correct?
6 A. They could. They could.
7 Q. You can't testify, as you sit here
8 today, though that that rainwater was combined with
9 chemicals.
10 A. No, but I can say this: It could have
11 been a liquid chemical then that ran out of the
12 dumpster and onto my head.
13 Q. Do you know that Coral Chemical utilized
14 any liquid chemicals?
15 A. I don't know that.
16 Q. Okay. Let's get to the incident that
17 you're so anxious to tell us about in connection
18 with --
19 MR. RANDOLPH: Object to the form of the
20 question.
21 BY MR. MUSCHLER:
22 Q. -- what happened at Coral.
23 Can you describe that for me?
24 A. Yes, very easily. I had the dumpster

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1 hoisted up in the air and walked around to the
2 other side with the dumpster up in the air. You
3 had to compact the packer several times to empty
4 what was in the dumpster, and by going underneath
5 the dumpster, this material leaked down on top of
6 my head.
7 Q. Okay. Can you tell us when that
8 occurred, sir? How long ago?
9 A. In the middle to late sixties.
10 Q. Okay. You're able to identify the
11 middle to late sixties rather than sometime, say,
12 in the early seventies?
13 A. It was not in the early seventies. It
14 was in the sixties.
15 Q. How do you know it was not in the early
16 seventies?
17 A. Because I recall it was in the sixties.
18 Q. Okay. You said that you picked up from
19 Coral from the mid to the late sixties, beginning
20 in the mid to the late sixties --

21 A. Yes.
22 Q. -- to the time that your company,
23 Waukegan Disposal, was purchased by
24 Browning-Ferris, is that correct?

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1 A. That's correct.
2 Q. When did that purchase occur?
3 A. In '72.
4 Q. Okay. Now, my question though, sir, is
5 how can you state so affirmatively that this
6 incident occurred in the late sixties rather than
7 in the early seventies?
8 A. Well, I probably remember this incident
9 very clearly since it was a pretty serious injury.
10 Q. Is there any benchmark that allows you
11 to remember it was during that time period?
12 A. Well, no, but I can remember it was at
13 the time because we talked about it, all the
14 drivers, that we had to be very careful.
15 Q. You said it was an injury.
16 What was the nature of the injury?
17 A. The nature of the injury was that that
18 liquid burned a hole into the top of my head pretty
19 deep.
20 Q. What did you do as a result of that?
21 A. I rinsed it out and kept it clean.
22 Q. Did you seek any medical help?
23 A. No.
24 Q. Okay. You rinsed it out.

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1 When do you recall rinsing it out?
2 A. Right after it happened because it
3 started burning.
4 Q. Did you rinse it out at Coral or at some
5 other location?
6 A. No, at the next pickup place because it
7 started burning.
8 Q. Do you recall where the next pickup
9 place was?
10 A. Yes. It was over at Country Club
11 Apartments.
12 Q. You never sought any medical treatment
13 for it.
14 A. No.
15 Q. Did you do anything to the injury after
16 you rinsed it out at the next stop?
17 A. Well, when I came home, my wife looked
18 at it, and we put some iodine or whatever into it
19 to keep it from getting infected.
20 Q. Okay. After that, did you do anything?
21 A. I watched it on a daily basis to make
22 sure it didn't --
23 Q. But you never sought any medical

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1 A. No.
2 Q. Was there anybody else present at Coral
3 at the time that this incident occurred?
4 A. No, because I already had left Coral at
5 the time I realized what had happened.
6 Q. When you were at Coral, did you realize
7 that something had fallen on your head?
8 A. Yes.
9 Q. When you --
10 A. I felt it.
11 Q. Okay. Did you wipe it off then?
12 A. I just wiped it with my hand and
13 continued working.
14 Q. Did your hand become irritated or
15 infected at all?
16 A. No, because I wiped that. No, it did
17 not.
18 Q. Okay. Was there anybody else on the
19 truck with you at the time of that incident?
20 A. No.
21 Q. Did you ever inform Coral of that
22 incident?
23 A. No, I didn't.
24 Q. Did you ever ask Coral what they had in

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1 their containers?
2 A. No.
3 Q. Were you ever involved in any other
4 incidents with Coral?
5 A. No.
6 Q. Are you aware whether any of your other
7 drivers were involved in any incidents at Coral?
8 MS. CLOKEY: Can you define what you mean by
9 the term "incident"?
10 MR. MUSCHLER: Something out of the ordinary
11 from a normal pickup at a location.
12 BY THE WITNESS:
13 A. Oh, yes. We had several fires in the
14 truck after pickups from Coral.
15 BY MR. MUSCHLER:
16 Q. Okay. Now, let me take you back because
17 you're responding to my question about whether you
18 had experienced any other incidents or your
19 drivers?
20 A. I had experience personally.
21 Q. Okay. Would you describe that?
22 A. Yes. This Coral Chemical were always
23 picked up before we went over to Country Club
24 Apartments, which were a big complex over by Green

1 Bay and Washington Street, and we started dumping
2 containers into the packer truck and a fire started
3 immediately after dumping one container.
4 Q. After dumping a container from Coral?
5 A. No, into the material that was left in
6 the truck from Coral.
7 Q. Okay. So you say that you dumped
8 material from Country Club Apartments into your
9 compactor truck.
10 A. Yes.
11 Q. And a fire resulted after you dumped
12 those materials in.
13 A. That's correct, after they mixed with
14 material we had picked up at Coral.
15 Q. Let me ask you this: When you picked up
16 at Coral, was that your first pickup on a route or
17 were there prior pickups before Coral?
18 A. There was other pickups before that.
19 Q. There were prior pickups before Coral.
20 A. Yes.
21 Q. So when you picked up at Coral, you had
22 material in the truck already.
23 A. Yes.
24 Q. Would there be any way, as you sit here

1 today, that you could estimate how full your truck
2 was when you picked up generally at Coral?
3 A. I could estimate approximately half
4 full.
5 Q. Okay. Then your testimony is that after
6 you picked up at Coral and went to Country Club
7 Apartments a fire occurred in your truck.
8 A. Yes.
9 Q. Okay. How often did that occur?
10 A. That occurred once for me and two or
11 three times for another driver named Richard
12 Engstrom.
13 Q. Did it happen with any of your other
14 drivers?
15 A. That I couldn't recall.
16 Q. What did you do after the fire?
17 A. We dumped the load.
18 Q. Where did you dump it?
19 A. In an open field by the apartment
20 buildings.
21 Q. Did you ever inform Coral of these
22 incidents?
23 A. Yes, we did.
24 Q. How did you do that?

1 A. We told them next time at the pickup.

2 Q. Who did you tell?
3 A. The people in the plant.
4 Q. Did you ever write them any letters in
5 connection with this?
6 A. No, I don't believe we did.
7 Q. Did you handle Coral waste any
8 differently from any other customers?
9 A. No.
10 Q. When, to your recollection, sir, was the
11 last time that you were at Coral?
12 A. I cannot remember the last time.
13 Q. The last time though that you did a
14 garbage pickup at Coral would be sometime prior to
15 the acquisition of your company by BFI, is that
16 correct?
17 A. That's correct.
18 Q. After your company was sold to BFI, did
19 you have any dealings with Coral?
20 A. No, I didn't.
21 Q. Did you ever inform anybody at BFI that
22 the materials that you were picking up from Coral
23 may have been dangerous?
24 A. I don't recall doing that.

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1 Q. Again, sir, you don't know what liquids
2 struck you on the head in that one incident, do
3 you?
4 A. No.
5 MR. MUSCHLER: I think that's all I have,
6 sir. Thank you.
7 MS. STEIN: Good morning, Mr. Kirkegaard. My
8 name is Marta Stein, and I represent Stone
9 Container Corporation. I'm also going to ask you a
10 couple questions this morning.
11 THE WITNESS: Okay.
12 EXAMINATION
13 BY MS. STEIN:
14 Q. You mentioned during your testimony
15 yesterday that Stone Container was a customer of
16 Waukegan Disposal, is that correct?
17 A. That's correct.
18 Q. When did Stone Container first become a
19 customer of Waukegan Disposal?
20 A. I cannot remember the exact year, but it
21 was in the sixties.
22 Q. Do you recall if it was in the early
23 sixties or the mid-sixties?
24 A. I would say it was from the middle to

1 IN THE UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION
4 WAUKEGAN COMMUNITY SCHOOL)
5 DISTRICT NO. 60, et al.,)
6 Plaintiffs,) VOLUME III
7 v.) Case No. 92 C 7592
8 ABBOTT LABORATORIES, et al.) Judge Leinenweber
9 Defendants.) Magistrate Judge Rosemond

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October 21, 1993
9:40 a.m.

The deposition of PEDER KIRKEGAARD
resumed pursuant to adjournment at The Marc Plaza
Hotel, 509 West Wisconsin Avenue, Milwaukee,
Wisconsin.

1 special pickup.

2 BY MR. RANDOLPH:

3 Q. So the purchase orders which are part of
4 Exhibit 41, as well as Exhibit 5, reflect charges
5 just for the regular pickups, is that right?

6 A. Yes, yes.

7 Q. I'd like next to direct your attention
8 to Coral Chemical.

9 Do you recall your testimony yesterday
10 about Coral Chemical?

11 A. Yes, I do.

12 Q. In addition to the six-yard container
13 you described at Coral Chemical, do you recall
14 whether employees of Coral Chemical would on
15 occasion bring out other types of containers of
16 waste to be disposed of by Waukegan Disposal?

17 A. Yes. I remember on quite a few
18 occasions they would come and tell us they had some
19 more material inside, and they would bring it out
20 on a forklift and dump it right into the hopper of
21 the truck.

22 Q. What kinds of containers would that
23 additional waste have been contained in?

24 A. That would be drums, corrugated drums

1 half full or some empty and some bags and some
2 cafeteria waste and material like such.

3 Q. Okay. When you say "corrugated drums,"
4 what size drum are you talking about?

5 A. Approximately 30 gallon.

6 Q. Would those have contained the same
7 type, generally, of waste that was contained in the
8 six-yard container at Coral Chemical?

9 A. Yes. It was because the container
10 outside were full so there was additional material.

11 Q. Did that waste at Coral Chemical also
12 include office waste?

13 A. Yes, it did.

14 Q. Did the waste at United States Envelope
15 also include office waste?

16 A. Yes, it did.

17 Q. In using the term "office waste," Mr.
18 Kirkegaard, do you remember that there was a number
19 of types of items that would be included within
20 that category?

21 A. Yes, that could be a mixture of like
22 even carbon paper and all kinds of different types
23 of paper, paper clips, staples and so on.

24 Q. Did that include such things as

1 cigarette butts?

2 A. Yes.

3 Q. Newspapers.

4 A. And newspapers.
5 Q. Soft drink cans and bottles.
6 A. Yes.
7 Q. And you talked about papers.
8 Are you talking about papers with
9 printing and lines on them?
10 A. That would be paper with printings on
11 it.
12 Q. Do you recall an incident regarding a
13 Christmas tree catching on fire relating to Coral
14 Chemical?
15 A. Yes, I do.
16 Q. Could you tell us what happened?
17 A. We had just picked up Coral Chemical and
18 went into Country Club Apartments. It was right
19 after Christmas, and they always put their
20 Christmas trees out. We put -- I don't remember if
21 it was one or two Christmas trees in the hopper and
22 packed it. All of a sudden almost like an
23 explosion started, and we just made it to dump the
24 truck. It was very, very hot fire.

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1 Q. You say the truck was on fire at that
2 time.
3 A. Yes.
4 Q. Where did you dump it?
5 A. It was in an open field right behind the
6 Country Club Apartments.
7 Q. When you would dump this load that was
8 on fire, what would you do after you dumped it?
9 A. Well, if it was in a dangerous area, we
10 would call the fire department. Otherwise, we
11 would just let it burn.
12 Q. After it burned out, what would you do
13 with the waste?
14 A. We would come back and clean it up.
15 Q. Where would that waste go?
16 A. To the Yeoman Creek landfill.
17 Q. Next, I'd like to turn your attention to
18 Stone Container and ask you to take a look, if you
19 would, at Exhibit 22 to the depositions.
20 MS. CLOKEY: Which is a single sheet of paper.
21 MR. RANDOLPH: It should be a front and back.
22 It's Pages 278 and 279, I think. Maybe they only
23 copied this first side.
24 MS. CLOKEY: I have only a single sheet.

STATE OF ILLINOIS)
) SS:
COUNTY OF LAKE)

AFFIDAVIT OF VERNON T. LADEWIG, JR.

I, Vernon T. Ladewig, Jr. having first been duly sworn upon oath, do hereby depose and state as follows:

1. I have personal knowledge of the facts set forth in this affidavit and would be competent to testify thereto.

2. I reside at 1341 Eastview Drive, Waukegan, Illinois 60085.

3. From 1964 to 1970 I was employed by the Waukegan Disposal Company. During 1968 through 1970 I worked for Waukegan Disposal Co. full time. Prior to that time, for about four years, I worked part-time. My duties included driving a garbage truck, picking up waste from commercial customers, and hauling the waste to whatever dump site Waukegan Disposal was using at the time. For the first month or so that I worked for Waukegan Disposal, we used the landfill that is now Edwards Field. When it filled up and closed we changed to the Yeoman Creek Landfill in Waukegan, Illinois for disposal. Sometime in 1969, Waukegan Disposal stopped using the Yeoman Creek Landfill.

4. Except where indicated otherwise in my testimony below, all customers' waste was picked up from one-yard dumpsters which the customers kept outside of their buildings. These dumpsters routinely contained a variety of materials including paper, metal, rags, wood -- basically all the waste the customer generated except those disposed down a sewer.

14. North Chicago Sanitation Department sent sludges containing cranberry pulp from Ocean Spray at 22nd and Commonwealth. We picked up 2 dumpsters twice a week.

15. Coral International Chemical Company, north of Washington Street and about 1/2 to 3/4 mile east of Route 41, was a daily customer. They sent 2-3 yards of chemicals in fibre drums every day. The chemicals appeared to be different powders. Their waste frequently caught fire in the truck until they switched to roll-off containers. They were a customer during the entire time I worked for Waukegan Disposal.

16. The Rustic Manor in Gurnee sent kitchen waste. I picked up ten 30 gal. cans every other Saturday. Other drivers probably picked up during the week.

17. Petropolis Brothers, an appliance dealer in downtown Waukegan near Samples, sent old appliances. Waukegan Disposal picked them up in the pick-up truck. We picked up approximately 15 large appliances each month. They were a customer during the entire time I worked for Waukegan Disposal.

18. Blumberg Furniture sent paper, garbage, old large appliances, etc. We picked up 12 dumpsters every day. They were a customer during the entire time I worked for Waukegan Disposal.

19. Waukegan Paint and Lacquer on Market Street sent 55 gallon barrels of naptha and paint. We would pick up 4-6 barrels per month in the pickup truck. Peder Kirkegaard

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Cain Beneficiaries

SUMMARY FOR CAIN BENEFICIARIES

The beneficiaries of American National Bank and Trust Company of Chicago Land Trust #22859 ("the Trust") are Cain Investment Company, James B. Cain, the Estate of John H. Cain and the devisees and legatees of John H. Cain, Mary Littlefield and Patricia C. Penn. (Ex. 1)

The Trust acquired the property on which the Waukegan Plaza Shopping Center is located by deed of trust from Ruth E. Hultgren on February 2, 1966. (Ex. 2)

A portion of the parcel which includes the Waukegan Plaza Shopping Center is within the boundaries of waste delineation south of the Edwards Field portion of the Yeoman Creek/Edwards Field Site. (Final Remedial Investigation Report, Figure 8.) The type of waste present on this parcel consists of typical, putrescible municipal solid wastes and materials such as cloth, paper, plastic, metal scraps, pieces of rubber and a black or gray viscous material. (Final Remedial Investigation Report, ¶ 4.1.1.3.)

158594.1

*IR Already sent to Trust,
which should forward it.*

HINSHAW & CULBERTSON

DELEVILLE, ILLINOIS
BLOOMINGTON, ILLINOIS
JOLIET, ILLINOIS
LIBERT, ILLINOIS
MORRIS, ILLINOIS
ROCKFORD, ILLINOIS
SPRINGFIELD, ILLINOIS

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URBANA, ILLINOIS
WAUKEGAN, ILLINOIS
BOCA RATON, FLORIDA
MIAMI, FLORIDA
ST. LOUIS, MISSOURI
APPLETON, WISCONSIN
MILWAUKEE, WISCONSIN

November 7, 1991

WRITER'S DIRECT DIAL NO.

FILE NO.

704-3070

Shell J. Bleiweiss, Esq.
McDermott, Will & Emery
227 West Monroe Street
Chicago, IL 60606

Re: Yeoman Creek and Edwards Field Landfill Investigations

Dear Mr. Bleiweiss:

This correspondence shall confirm that Mr. James B. Cain is providing his authorization to the Yeoman Creek PRP Committee for temporary site access to the property known as the Waukegan Plaza Shopping Center ("Property"). Mr. Cain reserves the right to revoke site access. Site access is extended for the limited purpose of allowing Golder and Associates to conduct environmental testing on the property as described in your letter to me dated October 15, 1991.

This correspondence shall further confirm that the Yeoman Creek PRP Committee agrees to indemnify the parties ("Parties") identified in Schedule A attached hereto, from any and all claims, causes of action and demands for bodily injury, including death, and injury to property, real or personal, which arises from negligent activity by the Committee on the Property pursuant to this access agreement, except claims, causes of action and demands arising out of the negligence of the Parties.

Shell, if you have any questions please do not hesitate to contact me.

Very Truly Yours,

HINSHAW & CULBERTSON

Daniel J. Biederman
Daniel J. Biederman

DJB/

cc: Stephen H. Malato, Esq.

CAIN BENEFICIARIES
ADR EXHIBIT #1

SCHEDULE A

1. Patricia C. Penn;
2. Mary Littlefield;
3. James B. Cain;
4. Estate of John H. Cain, & the Devisees and Legatees of John H. Cain, deceased;
5. American National bank as trustee, trust number 22859 dated February 7, 1966; and
6. Cain Investment Company, an Illinois Partnership.

HINSHAW & CULBERTSON

☐ IN # _____

BELLEVILLE, ILLINOIS
BLOOMINGTON, ILLINOIS
JOLIET, ILLINOIS
LAKE FOREST, ILLINOIS
LIBERTY, ILLINOIS
PEORIA, ILLINOIS
ROCKFORD, ILLINOIS

SUITE 300
222 NORTH LA SALLE STREET
CHICAGO, ILLINOIS 60601-1001

312.704.3000

TELEFAX 312.704.3001

SPRINGFIELD, ILLINOIS
URBANA, ILLINOIS
PAVEGAN, ILLINOIS
MOBILE, ALABAMA
MIAMI, FLORIDA
ST. LOUIS, MISSOURI
APPLETON, WISCONSIN
MILWAUKEE, WISCONSIN

☒ OUT # 60TELECOPIER TRANSMISSION

WRITER'S DIRECT DIAL NO.

FILE NO.

DATE: 11/7/91TIME: 4:30 P.M.CLIENT NO.: 9324CLIENT NAME: CainMATTER NO.: 182838

MATTER NAME: _____

TO: (Name) SHELLY J. BLEIWEISS, ESQ., MCDERMOTT, WILL & EMERYTelecopier No.: (312) 984-2099FROM: DANIEL J. BIEDERMAN USER # 7942NO. OF PAGES (Including this cover sheet): 3

COMMENTS: _____

☐ SENT BY PITNEY BOWES☐ SENT BY _____

Please call 1-312-704-3340

Please call 1-312-704- _____

If you do not receive the number of pages listed above, please call the number indicated above.

If you are not the intended recipient of this telefax, please call the number indicated above at our expense immediately, so that we can arrange for the return of this document to us at no cost to you. Thank you.



CHICAGO TITLE INSURANCE COMPANY

15 SOUTH COUNTY STREET, WAUKEGAN, IL 60085

(708) 662-8000

TRACT INDEX SEARCH

MCDERMOTT WILL & EMERY
227 W MONROE ST
SUITE 3100
CHICAGO, ILLINOIS 60606
PAT BOWMAN

CTIC Order No.: 1409 TS332134 LX
Cover Date: OCTOBER 22, 1992
Ref: OWNERSHIP FROM 1/1/55
GAM/LT

Legal Description of Land Searched: (See Attached)

Permanent Tax Number (P.I.N.):
08-17-200-032

Street Address of Land Search (as furnished by Applicant):
ILLINOIS

Grantee(s) in last recorded conveyance:

AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, TRUST # 22859

In accordance with the application, a search of tract indices discloses the following items. With respect to residential properties, we may not have shown mortgages, trust deeds, or other liens which were eliminated by transactions closed through CTIC or Chicago Title and Trust Company.

DOCUMENT/CASE NO.: 870159
GRANTOR: ROBERT ROY TINSLEY & AL
GRANTEE: THE COSMOPOLITAN NAT'L BK OF CHGO
INSTRUMENT: DT
DATE: 06-17-55
RECORDED: 06-20-55
REMARKS: ALSO AFFECTS OTHER PROPERTY

DOCUMENT/CASE NO.: 873881
GRANTOR: ROBERT ROY TINSLEY & AL
GRANTEE: THE COSMOPOLITAN NAT'L BK OF CHGO, TR# 3468
INSTRUMENT: DT
DATE: 06-17-55
RECORDED: 07-15-55
REMARKS: RE-RECORD OF DOC 870159 ALSO AFFECTS OTHER PROPERTY

(CONTINUED)

— CAIN BENEFICIARIES —
ADR EXHIBIT #2

CHICAGO TITLE INSURANCE COMPANY

By:

Virginia Mason (AT)

SEE ATTACHED FOR TERMS AND CONDITIONS OF SEARCH AND EXPLANATION OF ABBREVIATIONS

This is not a title insurance policy, guarantee, or opinion of title and should not be relied upon as such.

00000317



CHICAGO TITLE INSURANCE COMPANY

15 SOUTH COUNTY STREET, WAUKEGAN, IL 60085

TRACT INDEX SEARCH

Order No.: 1409 TS332134 LK

Disclosures (Continued):

DOCUMENT/CASE NO.: 921484
GRANTOR: THE COSMOPOLITAN NAT'L BK OF CHGO, TR# 3468
GRANTEE: WAUKEGAN SHOPPING PLAZA, INC
INSTRUMENT: D
DATE: 07-30-56
RECORDED: 08-30-56
REMARKS: ALSO AFFECTS OTHER PROPERTY

DOCUMENT/CASE NO.: 1295114
GRANTOR: WAUKEGAN SHOPPING PLAZA, INC
GRANTEE: RUTH E. HULTGREN
INSTRUMENT: SMD
DATE: 02-07-66
RECORDED: 02-16-66
REMARKS: ALSO AFFECTS OTHER PROPERTY

DOCUMENT/CASE NO.: 1295115
GRANTOR: RUTH E. HULTGREN, SPINSTER
GRANTEE: AMERICAN NAT'L BK & TR CO OF CHGO, TR# 22859
INSTRUMENT: DT
DATE: 02-07-66
RECORDED: 02-16-66
REMARKS: ALSO AFFECTS OTHER PROPERTY

NOTE: AS REQUESTED, THIS SEARCH WAS MADE TO SHOW ALL RECORDED DEEDS FROM JANUARY 1, 1955 TO OCTOBER 22, 1992 ONLY. ALSO WE CHECKED OUR RECORDS FOR A RECORDED "MASTER LEASE" ON SAID PROPERTY AND FOUND NOTHING.

00000318



CHICAGO TITLE INSURANCE COMPANY

15 SOUTH COUNTY STREET, WAUKEGAN, IL 60085

TRACT INDEX SEARCH

Order No.: 1409 TS332134 LX

Legal Description:

THAT PART OF THE WEST HALF OF THE NORTH EAST QUARTER OF SECTION 17, TOWNSHIP 45 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING ON THE EAST LINE OF SAID WEST HALF OF THE NORTH EAST QUARTER OF SECTION 17, AFORESAID, AT A POINT 12.80 CHAINS SOUTH OF THE NORTH EAST CORNER OF SAID HALF QUARTER SECTION; THENCE WEST 12.50 CHAINS, MORE OR LESS, TO A POINT 30 RODS EAST OF THE WEST LINE OF SAID NORTH EAST QUARTER; THENCE SOUTH ON A LINE PARALLEL WITH THE WEST LINE OF SAID QUARTER SECTION, 11.20 CHAINS TO A POINT 64 RODS NORTH OF THE SOUTH LINE OF SAID NORTH EAST QUARTER; THENCE EAST 12.50 CHAIN TO THE EAST LINE OF SAID WEST HALF OF THE NORTH EAST QUARTER; THENCE NORTH 11.20 CHAINS TO THE PLACE OF BEGINNING, IN LAKE COUNTY, ILLINOIS.

00000319

ABBREVIATIONS FOR INSTRUMENTS

Instrument	Symbol	Joint Tenancy	Instrument	Symbol	Joint Tenancy
Agreement for Deed	AD	ADJ	Financing Statement	FS	
Assignment	A		Lease	L	
Assignment of Rents	AR		Lis Pendens Notice	LPN	
Building Violation	BV		Mechanics' Lien Claim	MLC	
Certificate of Sale	CS		Modification	MOD	
Chattel Mortgage	CM		Mortgage	M	
Claim for Lien	CL		Quit Claim Deed	Q	QJ
Conservator's Deed	CD	CDJ	Release	R	
Deed	D	DJ	Satisfaction	S	
Deed in Trust	DT		Special Warranty Deed	SW	SWJ
Executor's Deed	ED	EDJ	Trust Deed	TD	
Exention	E		Warranty Deed	W	WJ

TERMS AND CONDITIONS

This search is of the land described herein by legal description and where based upon a street address furnished by applicant, Chicago Title Insurance Company assumes no liability for the accuracy of the determination that the street address so furnished and listed, and the land described by legal description, constitutes the same premises. This search is made of Chicago Title Insurance Company tract indices which are geographic indices organized by legal description. Recorded instruments, including deeds or mortgages, which do not contain legal descriptions, are not posted in Chicago Title Insurance Company tract indices and will not be disclosed by this search.

Chicago Title Insurance Company (CTIC) has made this search using the same care and diligence for applicant as Chicago Title Insurance Company uses for itself in preparing searches for use in underwriting title policies, and no greater; in the event, however, that error should occur in the posting or searching of the said indices or in the reporting of the requested information, applicant agrees that the liability of CTIC is limited to actual damages sustained by applicant, but in no event shall such liability exceed \$50,000.00, in the aggregate, for all searches ordered by a single application. Nonpayment by applicant of CTIC search charges shall relieve CTIC of all liability for posting, searching, and reporting error. CTIC does not analyze instruments for legal sufficiency. Instruments are posted to tract indices and reported by searchers based on the characterization of the instrument by its preparer. This search is not a title insurance policy, guarantee, or opinion of title and should not be relied upon as such.

This search is made by Chicago Title Insurance Company solely for the benefit of the applicant. No third party (other than a party making a loan on the land described herein) shall have any right to rely on said search for any purpose whatsoever under any third party beneficiary theory, products liability theory or any other theory of law whatsoever.

U.S. Fair Credit Reporting Act, 15 U.S.C. 1681-1681t Statement:

This search is furnished by Chicago Title Insurance Company for the purpose of providing information relative to the record ownership of the subject land and without any regard to the credit worthiness of the particular parties who have owned or possessed the land during the search period.

00000320